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**CLOSING SUBMISSION**

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by

**GORDON STEELE QC**

in relation to

**PLANNING PERMISSION AND LISTED BUILDING CONSENT APPEALS FOR  
PROPOSED WORLD CLASS HOTEL OF INTERNATIONAL STANDING AT  
FORMER ROYAL HIGH SCHOOL, 5-7 REGENT ROAD, EDINBURGH, EH7 5BL  
DPEA REFERENCES: PPA-230-2178. LBA-230-2076, PPA-230-2213 & LBA-230-2118**

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## **1. INTRODUCTION**

- 1.1 There are two separate schemes for determination by Ministers which were considered in very considerable detail at the Inquiry. Each scheme has both a Planning Application as well as a Listed Building Application.
- 1.2 The determinations must be made in accordance with the Development Plan unless material considerations indicate otherwise (s25 of the Town and Country Planning (Scotland) Act 1997). This is the starting point for determinations.
- 1.3 The Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 requires that in considering whether to grant listed building consent the planning authority shall have special regard to the desirability of preserving the building or its setting or any factors of special architectural or historic interest which it possesses. These requirements appear both in s59 and s14(2).
- 1.4 In addition s64(1) of that Act also requires that “special attention should be paid to the desirability of preserving or enhancing the character or appearance of that area”.
- 1.5 For brevity I adopt Mr Thomson’s submission at paras. 2.3-2.18.
- 1.6 I will consider all of the above issues in this Submission. I will then conclude that:
- 1.6.1 the proposal accords with the Development Plan and is further supported by other material considerations;
- 1.6.2 the Appellants have, as confirmed in evidence, had the highest possible regard to the preservation and enhancement of the Royal High School building [RHS], its setting and all features of interest, as well as the conservation area; and
- 1.6.3 the development will preserve and enhance the RHS, the appearance and the setting of the RHS, the WHS and the conservation area.
- 1.7 I submit now and will do so again later that all necessary consents should be granted to bring to an end the vacancy and increasing dereliction of one of Scotland’s most important buildings.

## **2. BACKGROUND**

- 2.1 The background or at least part of it is set out in detail in CD161. I set out here the summary of events from CD161.

“The Royal High School has had no long-term occupier since 1968, since when it has been the subject of a number of redevelopment proposals.

- 2.2 Timeline:

- Erected by the Council in 1829, replacing the previous High School of Edinburgh.
- Vacated by the Royal High School in 1968.
- Sold to the Scottish Office in 1977.
- Adapted for the use of the anticipated Scottish Assembly from 1977 to 1980.
- Declared surplus and sold (back) to Edinburgh District Council in 1993.
- Subsequently occupied by a variety of tenants on a series of short-term leases.

- Subject to a number of redevelopment proposals between 1996 and 2009 including: the home of the Scottish Parliament; the headquarters of the Council; a sixth form college; a home for the European Youth Parliament; a military museum and heritage centre; a music conservatoire and performance halls; a cinematography museum and boutique cinema complex; and the National Museum of Photography. None came to fruition.
- Subject to an OJEU marketing exercise in 2009 in which Duddingston House Properties Limited was successful.
- Mothballed to reduce running costs in 2010.
- Applications for planning permission and listed building consent for conversion into a 147-bedroom hotel by the Appellant refused in December 2015.
- Appeals to the Scottish Government against the decision to refuse planning permission and listed building consent made by the Appellant in March 2016 and sisted at the request of the Appellant in September 2016.
- Applications for planning permission and listed building consent for conversion into a music school by the Royal High School Preservation Trust approved by CEC in August 2016.
- Proposal of application notice for conversion into a 127-bedroom hotel submitted by the Appellant in September 2016 with applications for planning permission and listed building consent submitted in February 2017.

In addition I repeat para. 11.1 of that Report.

“11.1. In December 2015, the Royal High School Preservation Trust applied for permission for an alternative scheme (ref: 15/05662/FUL) that would see the Royal High School redeveloped as a music school. This application was approved by the Council’s Development-Management Sub-Committee in August 2016. However, the RHSPT does not have an agreement with the Council relating to the use of the Royal High School and the Council remains under contract with DHP, so there is no prospect of these proposals going forward at the time being.” (emphasis added)

2.3 I stress the importance of the last sentence. This confirms that the RHSPT proposal is not relevant for current purposes - namely the determination of the appeals before the Inquiry.

2.4 I would also stress the basis on which DHP won the competition as outlined above. This is described by Mr Gibb at page 6/7 of his Inquiry Report (APP 47) and Professor Tavernor at pages 21-26 of his Inquiry Report (APP 45). The competition was won on the basis of a proposal that showed quite clearly two wings of significant height, scale and massing.

2.5 The Reporters determined that there were two inquiry sessions.

### 3. INQUIRY SESSION 1

3.1 The first session dealt with various issues which I set out here:

1. The special interest and relative importance of the listed building, and its contribution to the wider setting, including the conservation area, WHS, designed landscape and other heritage receptors;
2. architectural design quality;

3. impacts on the listed building itself; on the setting of other listed buildings; on the conservation area; on the WHS; on the designed landscape and other heritage receptors. This should cover both schemes advanced by the appellants;
4. assessment of the consented RHSPT scheme, but restricted to the question of whether there are other options which would ensure a continuing beneficial use for the building with less impact on its special interest, as set out in HES Policy Statement paragraph 3.47(c);
5. examination of relevant policy and guidance. However, the reporters consider that the policy position is largely understood by them and by the parties. They therefore caution against extensive cross-examination on this matter.

3.2 The Appellants have so far as possible endeavoured to address all the issues identified and in the order set out above. I will endeavour to consider all the issues in the same order, and consider and advance all opponents evidence in the order led.

#### **4. EVIDENCE FOR APPELLANTS**

4.1 The Appellants had a total of eight witnesses in Session 1. I submit the witnesses were all without exception of the highest possible calibre. All were fully professionally qualified and all are leaders in their own area of expertise. All were credible and reliable. Accordingly I submit great weight should attach to the Appellant's evidence for ease of reference I set out in this submission the conclusions of the Inquiry Reports of all those witnesses.

##### **1. ANDREW WRIGHT (APP 39)**

7.1 To return to the very beginning of my involvement in this project, Gareth Hoskins knew instinctively that this would be no easy rite of passage. The accuracy of his prediction rests in the dilemma of how a city such as Edinburgh, its heritage second-to-none, should evolve and respond to the development pressures posed by its own success. The horns of this dilemma are recognised in the following clause taken from the current management plan for the WHS, adopted earlier this year:

*Balancing the needs of the city to maintain its economic vibrancy and the need to protect the heritage is essential to both. The relationship between OUV and economic success needs to be protected, developed and celebrated. (CD490 p18)*

7.2 In the preceding pages of this Inquiry Report I have provided background information on the nature of my involvement throughout the duration of this highly challenging project. I have noted that, in my experience, it is relatively unusual for a heritage consultant to be engaged at such an early date in a project of this nature. I have highlighted also the enhanced role I was given within the project team over guiding the development of the design, with the purpose of reducing levels of anticipated impact through mitigation on the fabric and setting of the principal listed building on the site. This has occurred throughout all stages of the process once the design development was resumed in 2014.

7.3 I have noted the in-depth historical research programme that was embarked upon, and how this was founded upon the work of others as a springboard for arriving at new levels of understanding of Thomas Hamilton's masterly achievement in transforming the appearance of Calton Hill. I have highlighted how the analysis of the architects' original contract drawings and the discovery of new features which were integral to Hamilton's concept have had a direct bearing on the development of the design of the proposals for Schemes 1 and 2. In doing so, I have sought to demonstrate the extent to which responses set out in the respective Reports to Committee (CD419, CD425) have not recognised the importance of these findings, falling back repeatedly, and with more deeply entrenched views, on advice given during the early stages of the original competition.

#### **Professional opinion: Inquiry Session 1, topic 1**

The research carried out into the history of the site and the conclusions drawn have ensured that the appellants have not only complied with the requirement set out in the HESPS to understand the site, but this has been far exceeded. Normally it will be the case that levels of understanding are a fusion of what has been written in the past — essentially little more than harnessing inherited wisdom, but that is not to deny its intrinsic value. For the former Royal High School, the research goes beyond what had been written before, sufficient even to challenge the descriptions upon which the special interest of Thomas Hamilton's masterpiece had been based. It has increased its importance, and his achievement, rather than diminish it. The depth of the analysis has challenged also the basis upon which guidance was offered in respect of the competition scheme in 2009 and 2010, guidance which has been followed through inflexibly in evaluating the appellants' scheme proposals to the present time.

The application of this enhanced knowledge has influenced the direction in which the final design solution has evolved. The relative values of the other buildings on the site are put into sharp perspective in terms of their impact on the special interest and setting of the principal listed building, providing a sound platform upon which to measure the impact of the appellants' proposals. Other witnesses speaking on behalf of the appellants will attest to the breadth and quality of this work, and of its seminal importance to the development of the scheme design.

7.4 After the proposals for Scheme 1 were refused consent by the narrowest of margins at the Planning Hearing in December 2015, I have explained the purpose of the design review workshops which were led by me, and how the exercise served to reduce levels of impact on the historic fabric of the principal listed building on the site and its setting, and on the wider setting within the World Heritage Site. I mentioned that the exercise had been conducted without having regard to the commercial viability of the development. I have identified those areas where a marked difference of professional opinion had resulted over evaluating the levels of development that the site could accommodate by focusing on the west playground of the former school, and how this disagreement was never

satisfactorily resolved. I remarked upon the detachment of those invited to participate in the exercise and draw conclusions from that.

7.5 I have set out, in some detail, the methodology for establishing levels of impact on historic environment assets potentially affected by the development and how, in applying and adapting good practice for undertaking the assessment of impact, professional judgement based on a lifetime's experience has been exercised. I have stressed the extent to which these judgements have been strengthened by a multidisciplinary professional team approach, giving robustness to the process and the outcomes. I have concluded that, for both schemes, the potential impact had been mitigated substantially by the level of extreme care taken with the design - in the placing of new elements of building on the site, and in their massing and detail. At no stage were these impacts considered to be 'significantly adverse' to either setting or the special interest of the principal listed building. Likewise, for none of the views considered was the impact on the OUV of the WHS deemed to be within the category of 'major adverse'; *on balance overall, the impact was predicted to be of 'minor negligible benefit' in respect of the most important views which convey the highest attributes of OUV, values that are very close to being neutral.* I note that the conclusions have been disputed by the major stakeholders, but see no reasoned evidence of how they arrived at their entrenched and strongly held views.

7.6 As had been anticipated, Scheme 2 was assessed as having reduced levels of potential impact. The conclusions that have been reached are, in each case, based on the sound application of the relevant parts of published historic environment guidance; where there is disagreement over how the guidance should be interpreted, this has been highlighted in the Inquiry Report, based on personal experience and precedent.

### **Professional opinion: Inquiry Session 1, topic 3**

Grounded in historic environment legislation, the manner in which policy guidance is written and presented demands a varied approach to evaluating the impact of the proposals on defined heritage assets. The assessments have been undertaken having regard to current best practice in the field, for which the methodology has been clearly set out in the appellants' Heritage Statements. The methodology in each case allows for appropriately nuanced categories when assessing impact which are appropriate to the heritage asset under study.

In measuring the impact on the special interest and setting of the principal listed building, levels of direct impact from the scheme proposals vary from adverse to beneficial, having due regard to the building features under consideration where interventions are proposed. At no stage are the impacts considered to be 'significantly adverse' having regard to the wording of the SHEP/HESPS and local plan policies, while justification is set out for the conservation and wider economic benefits flowing from the demolition of listed and unlisted buildings within the site. For Scheme 2, levels of impact on the special interest and setting of the principal

listed building are reduced when compared with Scheme 1, an assessment that tallies with the review of the scheme design carried out during the workshop process early in 2016. However in arriving at this conclusion I recognise that Scheme 1 has greater architectural ambition at the point of arrival at the site, and with that comes an enhanced potential to animate the spaces that are created around the building at the west end of the site, and to enhance the public realm more effectively.

Indirect impacts are evaluated on the character and appearance of the conservation area and on the OUV of the WHS. In the case of the latter, HIAs were undertaken in accordance with recommended practice for major developments. For both schemes the conclusions reached in respect of the direct impacts on the setting and special interest of the principal listed building are taken into account, ensuring that the broadest view of the heritage is taken. Once more levels of impact on a disproportionate number of views are measured on a sliding scale from moderate/minor adverse to moderate beneficial to either side of neutral, slanted in favour of the overall impact being beneficial; as anticipated the impact of Scheme 2 is, once more, reduced from Scheme 1. Conclusions are reached that no harm will be caused to the character and appearance of the conservation area, and no lasting damage will be caused to the OUV of the WHS. Moreover, in the case of the latter, where the indirect impact is adverse, it falls far short of the magnitude to threaten the status of the WHS.

7.7 Finally, evidence is offered on the anticipated levels of impact on the special interest of the alternative consented scheme prepared on behalf of the RHSPT, a request made of the appellants' team by CEC. I have questioned the claim that this scheme is deemed to have been 'conservation-based', making comparisons with how the appellants schemes are deemed to meet this requirement more comprehensively. I draw the conclusion that it is not free of adverse impact and that aspects of the scheme would be harmful to the setting of Thomas Hamilton's masterpiece. I observe that in some respects the scheme causes unnecessary irreversible damage to elements of authentic fabric that have survived from the works completed in 1829, and at a level that has been avoided for each of the appellants' schemes. Moreover, the railings and gates between the upper pylon doorcases of the principal facade (also to be destroyed in this scheme) are a key architectural element, essential to arriving at an understanding of Thomas Hamilton's monumental design.

7.8 While an earlier concept prepared for the site appears to have been replicated here, I conclude that the original upon which it could have been based had failed to identify important features that have survived, hidden away behind a later building which is of lesser significance to the incomparable principal listed building. The retention of these original features and their exposure to view are integral to understanding how Thomas Hamilton placed his building on the site with such consummate skill, and his intentions for securing access to one end of the site, and from that point of access to the interior of the building in such a clear, and rational, manner. With an imposing new entrance introduced to Regent



Road — which Thomas Hamilton had resisted in a way that was very deliberate — the clarity of his site layout would be confused. I have made the observation that the consequential loss of fabric and risk to the structure of the former assembly hall from the proposed operations is both unnecessary and harmful to an exceptional degree.

#### **Professional opinion: Inquiry Session 1, topic 4**

In granting consent for the scheme prepared on behalf of the RHSPT it is claimed that the justification rests in the scheme being ‘conservation-based’, from having overcome the objections lodged against the appellants’ successive schemes for the site expressed in pre-application guidance - and as reiterated in the Reasons for Refusal in the respective Reports to Committee (CD419, CD425). I have argued throughout this Inquiry Report that it is illogical to suggest that the appellants schemes are other than conservation-based, observing how the principal differences of professional opinion relate directly to how the site is understood and appreciated.

I consider that there are elements of the building programme for the RHSPT scheme which will impact very heavily on the fabric of the principal listed building and hence its special interest. It is my firm view that to introduce a new main entrance to any part of the main portico facing Regent Road will be a travesty of Thomas Hamilton’s original intentions, and that the concept results from a lack of appreciation of what is significant about the site. I do not believe that the proposed new entrance would be invisible, as has been claimed. There is relatively little that has survived of original fabric within the principal listed building due to the extensive alterations carried out in the late 1970s, and the area below the portico is one set of spaces where this can be experienced. It is unique within the complex. The extensive work required to hollow out the entrance foyer so deep into the plan would add to the risks to the historic fabric which both of the appellants schemes seek to avoid. Further, I cannot condone the loss of the upper set of railings and gates for the scheme to go ahead as I believe firmly they are essential components of Hamilton’s outstanding design, emphasising its horizontality. While I note that the RHSPT scheme seeks to preserve the Gate Lodge, I do not consider this to be a major conservation benefit on the grounds that its special interest has been consistently overstated. Arguing a sound case for its removal can be traced back to the Conservation Plan prepared for the site in 2004 (CD622).

In addressing the impact on the setting of the principal listed building, I regard the positioning of accommodation to the rear of the north elevation to be flawed as a concept. It would be in plain disregard of Hamilton’s intentions for placing the ‘temple’ at the highest point on the site, to be as far forward of the retaining wall to the rear of the site as the site allowed. It is not acceptable, in my view, to consider the north elevation as being the ‘third’, or least important, in the hierarchy of the elevations of the classical nucleus, and therefore sacrificial within the scheme of seeking a location for new accommodation. As a consequence of the research carried out for the appellants the retaining wall and belvedere to the rear of the site are considered to be important components of Hamilton’s carefully integrated design for the site, contributing strongly to its special interest. While the upper parts of the

wall would be visible from distant elevated views (but less than has been claimed because of the mature trees in the immediate foreground), crowding the base of the wall with accommodation results in an adverse impact on its separation from the former school building.

Taken collectively, these adverse levels of intervention are of such magnitude that I maintain that it cannot possibly be said that the RHSPT scheme offers another option which would secure a continuing beneficial use for the building, but with less impact on its special interest.

**Professional opinion: overview**

Throughout this evidence, I have highlighted those many areas in which the reasons put forward for refusal are in ignorance of the case articulated in support of the appellants' schemes. I have also highlighted where, in my view, the presumption that the scheme cannot satisfy the requirements laid down in the HESPS and other policy guidance are not founded upon sound reasoning. I conclude that the reasons for refusal should be overturned as they have no justification under the current planning system.

**2. ROGER MASCALL (APP 40)**

6.1 I respond directly to the matters upon which the Reporters wish to hear evidence in light of review of the appellant's supporting work to the appeal schemes. I have undertaken that review from my professional experience and perspective as a former advisor on heritage issues to government and more recently as a practitioner promoting positive change in the historic environment. I draw the following conclusions.

(1) **The special interest and relative importance of the listed building, and its contribution to the wider setting, including the conservation area, WHS, designed landscape and other heritage receptors;**

6.2 I consider that the appellants' work in seeking to gain and broaden understanding of the special interest of the former Royal High School building and its site and setting is extensive and carried out in an exemplary way. This is illustrated by the approach to seeking understanding through research, familiarity with the building and site and then further research. With respect to the layout and fabric of the listed building, in depth informed understanding is apparent, properly taking account of Hamilton's design intentions and also later phases of change such as the impact of the PSA works. Importantly to my mind, such understanding includes how the building was sited to best effect within the site and its setting, in turn facilitated by Hamilton's retaining wall and terminating belvedere.

6.3 In my view this understanding leads to proper questioning of the nature of the category A listing and how this is extended in broad brush fashion to other buildings on the site. Indeed, such testing of apparent assumptions is inevitable in my experience, where the list entry for the building is

question, however well written or extensive, is the starting point for seeking full understanding of special interest. Here, understanding of Hamilton's principal building has been extended through the work of Andrew Wright and his ongoing research, whilst the relative value of other buildings and structures included within the same listing is properly queried. Some important and fundamental points underscore this approach — the technical 'listing' of other structures within the curtilage of the listed building does not automatically endow them with special interest and, similarly, the category A status of Hamilton's building does not automatically flow to later buildings by other architects, variously extended and altered since.

- 6.4 There are clear anomalies in the approach of the statutory authorities here, but they are addressed by the expert analysis in the Heritage Statement of the relative importance and degree of contribution made by the Lodge and former Gymnasium. This approach provides an informed basis for subsequent proper assessment of the case made for demolition of each and the relative associated quantum of effect. It also appears to me there is not great difference between the parties regarding the end result — a case can potentially be made for demolition of other buildings in the demolition of the Gymnasium block and other curtilage structures is required and considered to be acceptable.
- 6.5 From my professional experience of dealing with setting considerations, often in cases where substantial change is proposed, there are important principles to bear in mind in gaining understanding. Setting itself is not a heritage designation but its value is what, and to what degree, it contributes to the special interest of the heritage asset in question. Also importantly, while setting can be mapped in the context of an individual application or proposal, it cannot be definitively and permanently described for all time. This is because the surroundings of a heritage asset will change over time and because new information on heritage assets may alter what might previously have been understood to comprise their setting and the values placed on that setting and therefore the significance of the heritage asset.
- 6.6 In this case I consider that the appellant has provided comprehensive and informed understanding of the building and how it was sited and arranged within the site and hence intended to be experienced - including within prepared views and early photographs, This is particularly illuminating and in my view underpins how setting and its contribution to special interest in this instance should be assessed. This important point and how the existing building is best appreciated by the observer in light of Hamilton's intentions (and depiction> is further considered in the evidence of Professor Tavernor.
- 6.7 therefore consider that the Heritage Statement appropriately assesses the degree to which setting and associated views contribute to the significance of the listed building to allow its significance to be appreciated. This

provides a proper basis for subsequent assessment of the impact of the appeal proposals.

**Conclusion on matter (1)**

6.8 I endorse the work in the Heritage Statement which in my professional opinion is scholarly, sound in approach and detail, and more than adequately articulates heritage significance. As such the Heritage Statement provides clear understanding of the nature and extent of special interest and relative importance of the listed building and other constituent parts of the site, and its contribution to wider setting. That extensive understanding has also underpinned the EIA.

**(3) Impacts on the listed building itself; on the setting of other listed buildings; on the conservation area; on the WHS on the designed landscape and other heritage receptors.**

6.9 It is evident there is clear divergence in views regarding the level of impact of the appeal proposals on the listed building and its setting and its worth examining why this may be the case given the extensive understanding gained by the appellant of the heritage values of the existing building and site (which I endorse as satisfying matter (1) above).

6.10 It seems to me that the aim of CEC and HES has been to resist ‘visible’ change and indirect impacts within the site (particularly to the west) and the setting of the listed building — to the extent that new built form should not be seen in relation to the listed building. The RHSPT scheme which adopts this strategy as far as possible (at the expense of increased intervention in the fabric and form of the listed building itself) is supported by CEC and HES. This suggests that the space around the building and in particular the former western playground are of such importance and value to the significance of the listed building that change there must be prevented, even if at the expense of causing direct harm to the original fabric and form of Hamilton’s building. This approach also suggests an underlying precept that the appearance of new built form is in principle likely to be harmful, with no regard had to the actual appearance, architectural design and disposition of that built form based upon understanding of the site and its context.

6.11 I find that approach troubling as in my experience the appearance of something ‘new’ in relation to a heritage asset is not automatically or necessarily harmful. In this case, through expert design (considered in detail in the evidence of Gordon Gibb, Professor Murray and Professor Tavernor), the form and appearance of what will be placed on the site in relation to the listed building has been carefully considered whilst at the same time providing the accommodation required to secure a viable new use for the listed building. As a direct result, direct interventions to Hamilton’s work and the listed building itself are minimised — a conservation-minded approach to seeking beneficial re-use of the listed building. From experience I know that the requirements for hotel

bedrooms is such that they are usually best placed away from areas of special interest, whilst associated facilities can more easily be accommodated into historic suites or enfilades of rooms and spaces. That approach is adopted in the appeal proposals based upon understanding of significance so that hotel bedrooms are accommodated in new buildings or wings with indirect impacts and direct impacts are minimised by locating related hotel facilities within Hamilton's building.

6.12 In my experience new buildings and new design in historic settings can be positive in their own right reflecting 'conservation' as the management rather than prevention of change - as long as it is based on understanding of significance. I draw support for this approach from best practice and supporting advice and guidance from bodies such as English Heritage/Historic England and CABE (12) - where in effect a practical philosophy of 'constructive conservation' has evolved over time. The aim of constructive conservation is to achieve balance between sustaining heritage values whilst achieving solutions which are architecturally and commercially deliverable.

6.13 I know that constructive conservation as practised by Historic England and espoused to the wider heritage sector was preceded by the Building in Context (13) initiative, which also sought to promote the attributes of good modern design, which whilst firmly of today, could through drawing intelligent inspiration from a site's surroundings in the historic environment, ensure that it is nevertheless rooted in the past. In effect change made on the basis of understanding.

12 e.g. English Heritage - Capital Solutions (2004); Shared Interest (2006); Constructive Conservation in Practice (2008); Valuing Places (2011); Constructive Conservation — Sustainable Growth for Historic Places, English Heritage (2013).

13 Building in Context, English Heritage and Cabe (2001)

6.14 I consider that such principles are reflected in the guidance New Design in Historic Settings (CD 508) which I consider is particularly relevant to the consideration of the appeal proposals where new design is proposed in a historic setting. Notably, this guidance makes it clear that HS (as was) hoped to open a dialogue around the issues of new design in historic settings so that each case can be discussed within its own terms and context. However, I detect in the approach of both HES and CEC to consideration of proposals for re-use of this important listed building, that however well-meaning, a much more conservative and narrow attitude underpinning assessment of impact.

6.15 Matters of architectural design are considered in the evidence of others and I do not seek to repeat those aspects here. However, broad assessment of the appeal proposals against the key principles set out in the New Design in Historic Settings is instructive, providing a valid framework for balanced assessment of relative impact. For example, *'new interventions*

*in historic settings do not need to look ‘old’ in order to create a harmonious relationship with their surroundings’— in the case of the appeal proposals with the necessary ‘honesty and confidence’ in evolving a modern architectural response to development within the setting of the former Royal High School successfully adopted.*

- 6.16 Materials and massing do not seek to replicate the listed building but provide an informed response to the characteristics of its setting. This has been based upon *‘careful study and analysis of the nature, form and history’* of the specific place and context of the listed building — illustrated by the depth of understanding gained and presented in the Heritage Statement — identifying *‘the DNA of a place — how it has come down to us today and what were the key factors that have influenced its current form’*. The new design has fully considered the *‘surrounding scale, hierarchy and massing of the existing built form’* with an *‘agreed set of key views’* used to assess the *‘sphere of influence’* from an early stage in the process and in impact assessment of the proposals on heritage setting.
- 6.17 Further, the appeal proposals adopt a *‘sensitive use of appropriate colour, texture and pattern of materials’* important in the overall design ethos of building next to the listed building but respecting its own materiality and form, key to its special interest, whilst seeking to *‘blend-in’* in a recessive manner to the setting of the appeal site. In essence the proposed new hotel bedroom wings can be described as aspiring *‘to blend and coalesce with the existing built form without simply replicating it’*. Similarly, the proposals, through maintaining the focus of the temple front of Hamilton’s powerful building, protects its primacy and function as a landmark within wider contexts. And, perhaps, most relevant of all to the matters I consider in this Inquiry Report, the proposals are firmly based upon *‘an understanding of the historic evolution of a place’* — *‘essential in determining whether a historic setting needs enhancement of whether lost elements should be restored’*. As I have noted above these tenets of a positive approach to new design in the historic environment are reflective of wider and more generally accepted principles which in my experience tend to lead to positive outcomes.
- 6.18 I consider that the combined Heritage Statement which must be read as a whole properly tackles assessment of impacts from the micro (e.g. impact on historic fabric and layout) to the macro (impact on much wider and more extensive heritage designations). This includes, given the appeal site’s location in a WHS, a Heritage Impact Assessment, adapted in light of practical application and experience, addressing ICOMOS guidance. Similarly, the Heritage Statement provides the necessary baseline information to underpin the EIA.
- 6.19 From experience I know that use of the ICOMOS guidelines, whilst useful, can lead to technically derived assessments of impact which can lack the

overt depth and clarity of more narrative based assessment (against and in light of prevailing legislation, policy, guidance and best practice) prepared using professional and expert judgement. It is commendable that the Heritage Statement has tackled assessment of impacts from both perspectives.

- 6.20 I believe that the author of the Heritage Statement understanding of the building and site, which has increased over the timescale of the project, has formed a key input to the design team's proposals for adaptive re-use of the building. The design has therefore been informed by such understanding from an early point in the process. I also note that the author has sought to share and consult upon his increasing understanding of the site with all stakeholders. Both these aspects, whilst often critical to successful new development in the historic environment, unfortunately in my experience are not always the case.
- 6.21 Both appeal schemes have been informed by this understanding, whilst the opportunity was taken to increase that understanding further after the refusal of permission for the first scheme. However, the apparent overlooking of aspects of the author's understanding of the site, rigid adherence to the binary nature of the category A listing for the principal building (thereby skewing reasonable assessment of the case made for demolition of other ancillary buildings) and apparently narrow approach to considering the visual impact of the proposals (and in the case of HES a reticence to consider new design in the round) concern me and underpin a misguided approach to impact assessment.
- 6.22 I have direct and recent professional experience of the benefits and synergies that hotel use can bring to particularly important listed buildings, where some compromise — or balancing of harmful impacts against benefits - is essential in allowing sufficiently viable schemes to secure the long term future of the heritage asset. This is evident here, where an imaginative and confident design response has been derived by understanding of special interest and setting. Hotels are noted (14) to be good economic indicators because they reflect the demand from business users during the week and from leisure users at weekends. Strong demand is a barometer of economic confidence, as is investment by hotel groups in new capacity and it has been long been recognised that hotel use is one excellent way of providing an economic future for large historic buildings (15). Importantly, hotel owners and managers gain competitive advantage from being able to offer the special experience of staying in buildings that are rich in history and character. That would be the case with the appeal proposals where public access would be possible to the listed building and its key interior spaces.

14 Constructive Conservation, English Heritage (2011)

15 *ibid*

### Conclusion on matter (3)

- 6.23 I endorse the appellants approach to assessment of impacts and given my professional experience of the particular benefits that hotel use can bring to the re-animation of important listed buildings in sensitive settings, I conclude that the appeal proposals are properly conceived and framed. A correct balance has been struck between minimising direct intervention in Hamilton's building and original fabric whilst accommodating necessary new accommodation in a form which minimises resultant indirect impacts — all based upon thorough understanding of special interest and setting.
- 6.24 Of the two schemes, I generally favour the second on the basis it incorporates iterative revisions as a result of feedback and concerns, design review and further understanding of the site. However, each scheme, involving a different quantum of accommodation to be weighed against necessary economic considerations, when considered on its merits provides a justified solution in heritage terms for adaptive and beneficial re-use of this important listed building.
- (4) Assessment of the consented RHSPT scheme, but restricted to the question of whether there are other options which would ensure a continuing beneficial use for the building with less impact on its special interest, as set out in HES Policy Statement paragraph 3.47(c);
- 6.25 HES and CEC reference the RHSPT scheme as an alternative development and use for the site which is seen as less harmful in heritage terms primarily on the basis of providing no development on the former playground to the west. 6.26 However, I have reviewed the consented proposals and believe that whilst the scheme meets the HES and CEC objective of not siting new development to the west of the building, other more harmful effects result. Most notably, the scheme involves significant external and internal intervention to original fabric directly below the portico of Hamilton's building, in turn also requiring extensive excavation below the portico and central hall. Where wholly new built form is required it is placed between the entrance elevation of Hamilton's building and the retaining wall to the rear of the site.
- 6.27 I believe it is notable that this scheme also requires significant new accommodation to facilitate a new use for the listed building and whilst great effort has been made to visually conceal this within the site, the strategy has required greater alteration of the listed building itself. The understanding gained of the listed building and Hamilton's design intent clearly illustrates the primacy and architectural importance of the south elevation to Regent Road, never intended or designed to be the main entrance. Contravention of this principle serves to confuse Hamilton's intentions and work against the special interest of the listed building.
- 6.28 Similarly, the north elevation which is arranged around the principal entrance is composed and decorated as such — much more than a simple



‘rear’ elevation. However, the RHSPT scheme locates necessary practice room accommodation adjacent to, and partly obscuring, much of that elevation (in HES’s words - *‘would prevent the north façade being read coherently, with octagonal pavilions introducing an uncharacteristic series of interlocking spaces’*). Indeed, I note that concerns regarding the design here have not been resolved with the cupolas or domes to the octagonal pavilions specifically not granted permission or consent and further details and revised design required by condition.

- 6.29 I am also concerned that internally, the volume of the now public entrance foyer requires demolition of Hamilton’s original series of vaulted spaces below the portico (in HES’s words involving *‘considerable loss of many of Hamilton’s original and characterful, network of passages and stone vaulting’*) and also extensive excavation below the foundations of the portico and central hall into the bedrock. In my experience such intervention and excavation below a listed building is increasingly contentious and where justified, subject to strict listed building control given the potential implications for the integrity of the structure. From what I have seen of the determination of the RHSPT scheme this important issue appears to have at best, cursory attention.

#### **Conclusion on matter (4)**

- 6.30 In my professional opinion the RHSPT scheme involves extensive works of alteration and adaption of original fabric and form of Hamilton’s building which will, in HESPS terms, have an adverse impact on the special interest of the building. When considered together with the potential resultant effects of the demolition and excavation required to facilitate the new use, the impact has in my view, the potential to be significantly adverse. Therefore, in HESPS terms (paragraph 3.47), regardless of the merits of the scheme considered in isolation, I do not consider that the RHSPT scheme sufficiently demonstrates it is an alternative use for the listed building which has less impact on special architectural and historic interest than the appeal schemes.

#### **Closing Reflections**

- 6.31 The challenge of securing a new viable use for this listed building is rightly the key principle which underpins the appeal proposals. In my experience since the publication of the first Register of Buildings at Risk in London in 1991 by English Heritage (now Historic England), where buildings or structures are assessed for inclusion on the basis of condition and occupancy or use, positive solutions have required finding imaginative new uses led by inspirational owners with alternative sources of funding and/or new partners. In my view, despite the decades of general vacancy of the former Royal High School building it does not fall into the category of those buildings or structures which are not capable of economic use.
- 6.32 I believe that the appeal proposals are imaginative whilst being firmly grounded in understanding and take an approach which seeks to minimise

harm to the intrinsic special interest of the building, instead providing necessary accommodation in a manner with indirect impacts respecting the setting of the listed building.

6.33 I consider that such proposed change has been carefully shaped in response to extensive understanding of the building, site and context, which in turn has underpinned fair and reasonable assessment of the resultant impacts as set out in the various components of the Heritage Statement. In these terms I consider that the expert understanding and associated impact assessments provide a rational and robust to support proposals that can then be weighed in the balance against economic benefits, assessed by others.

6.34 I therefore commend the heritage work undertaken in support of the appeal proposals and based on my own professional experience of such matters endorse the key conclusions reached regarding their acceptability in light of relevant heritage considerations. In these terms I find no impediment to granting of permission and consent should the resultant economic benefits be found to weigh in favour of the schemes in the overall planning balance.

### **3. GORDON GIBB (APP 41)**

6.13 It is true to say that infilling Hamilton's playgrounds with sandstone clad buildings that coalesce with and thereby diminish the Hamilton building would be detrimental to the special character of the site. However it is incorrect to conclude as a consequence of this that no new building should be acceptable. On the contrary I consider that new buildings set away from the Hamilton building will provide visual separation to respect the setting of the principal listed building and the views of the composition of monuments on Calton Hill. I believe both scheme designs represent carefully considered, sophisticated architectural responses to a challenging site and that the visualisations, showing what would actually be seen, support this opinion.

6.14 In views such as nos. 8 and 9 the new wings do not dominate or detract from Hamilton's building and in as much as they obscure some hillside the overall impact is not to create a ribbon of development. In all these views the Hamilton building remains the central focal point as it should.

6.15 In the assessment of many views from the south I believe the levels of impact of existing buildings are consistently understated. St Andrew's House is a huge building, it coalesces with Hamilton's Royal High School in a number of views, it competes with the monuments, it screens the bulk of Calton Hill from North Bridge and yet it is, rightly in my opinion, considered a fabulously successful building in the Edinburgh townscape. I'd also similarly note that the school gymnasium building sitting higher than Hamilton's building often appears to join the school with Regent Terrace in views, yet I am not aware of this ever having been acknowledged by key planning and heritage stakeholders.

- 6.16 Value of specific local views from an arbitrary fixed viewpoint are, in my opinion, given undue weight when they are in reality experienced dynamically. So for example Hamilton’s building obscures the hillside below the Nelson’s Monument in view 21A, the west wing of the hotel does the same in view 21B then the hillside and monument are revealed in view 21C. The introduction of the west wing changes the viewer’s experience of this sequence but it does not follow that the introduction of a new building has to be considered adverse. At no point in this sequence is the monument the focus of a viewer’s attention — there are expansive views across to the Old Town to be enjoyed yet value is attributed arbitrarily to a view of the monument from the particular viewpoint 21B.
- 6.17 It is also clear to me that the value of views to Old Town from the road up to Calton Hill are overstated. Tourists and local people experience this road either on their way up the Hill — facing away from the glimpsed views of the Old Town over Hamilton’s boundary railings - or on their way back down when they have already experienced a much more rewarding view of the Old Town than can be seen from the rear of the Royal High School site. It is, in my opinion, illogical to place value of every glimpsed view across the city. The importance of a place, a view, an experience in a historic city must be assessed methodically, value cannot be attributed arbitrarily.

## **7 CONCLUSION**

- 7.1 The former Royal High School is a uniquely important building within the Edinburgh townscape, it is rightly lauded as a masterpiece and one of the best examples of Greek Revival architecture in the UK. With no viable use having been found for the building since the school moved out in 1968, there is a very real risk that the building could be left vacant without a sustainable future. This is not a tenable scenario for such an important building.
- 7.2 Both Scheme 1 and Scheme 2 applications propose a world-class hotel representing an exciting yet realistic opportunity to reintegrate Thomas Hamilton’s building into the daily life of the city, and provide heritage, economic, and social benefits that have been lacking for half a century. In striving to ensure the proposal’s success Hoskins Architects undertook an extensive process of consultation and engagement with all interested stakeholders — be they statutory authorities, heritage groups, residents or neighbours to the site. Within this process, the design team responded positively to the comments and guidance received and the design was substantially progressed from the proposal which was subject of initial consultation. The architectural design approach taken improves the current setting of the Hamilton building, providing the whole site with a well-considered development solution that both respects the historic building, and provides the hotel with elegant, efficient and exciting new

accommodation that integrates skilfully with the existing architecture, landscape and topography of the area.

- 7.3 The dynamic forms of the proposed bedroom wings were welcomed by many stakeholders as an innovative response to the specific site conditions presented by the Hamilton building and its Calton Hill setting when first proposed in 2015; and the reduced scale of this revised scheme has been almost universally welcomed. I believe both proposals meet all the criteria by which they are to be judged, and provide the historic building and its site with a confident piece of contemporary architecture that successfully integrates with its unique setting and that will mature well over time.
- 7.4 I acknowledge that the original Hamilton building must retain its prominence on the site. Indeed this is essential to the successful operation of the hotel, with the intent that the building be reused to form the main entrance and focus for the key public facilities. The architectural expression of the new wings to either side of the Hamilton building is bold and contemporary, as it needs to be to successfully engage with Hamilton's masterpiece while at the same time ensuring that the wings are visually recessive and subservient to the category A listed building. It is made clear within the supporting Visual Impact and Heritage Impact chapters of the Environmental Statement for both Scheme 1 and Scheme 2 that the wings succeed in this regard. (refer to CD 016, 025, 026, 165, 174, 175)
- 7.5 Hamilton's original design placed a symmetrical arrangement of buildings, the main school building and its two front pavilions, atop a series of terraces cut into and set against the backdrop of Calton Hill and its other monuments. Over the lifetime of the school, the clarity of this composition was lost through the introduction of a series of buildings of greatly differing scales and of much lesser quality, in locations around the site. Despite being relatively discrete in many long views to the site, excepting the Gymnasium building, this unplanned collection of buildings, and the lack of maintenance of the surrounding landscape and planting, has had a severely detrimental impact on the setting of Hamilton's original building.
- 7.6 Both schemes propose the removal of this visual clutter from around the original building, and the introduction of new wings in a planned manner through a considered understanding of Hamilton's building and its setting. The proposed schemes do not in any way seek to 'finish' Hamilton's building, rather, they look to introduce new buildings in a contemporary architectural language that relate to and reinstates the Hamilton building as the focal point within the site. In developing a notionally symmetrical proposal, the intention has never been to 'complete' Thomas Hamilton's design, but more to respond to the opportunities of the site in a balanced way, This conclusion is also supported by the project's Heritage Impact Assessment, based on a sophisticated methodology evolved from

ICOMOS guidance, which objectively considered the impact of the proposal on the Outstanding Universal Value of the World Heritage Site from every important viewpoint in Edinburgh.

- 7.7 This being the case the appellant and design team present these hotel proposals as appropriate, sensitive design responses to the challenge of finding a long-term sustainable new life for this historically important site. Both schemes are, in my opinion, examples of architectural design of the highest quality and as such I would ask that both are granted planning permission and listed building consent.

#### **4. GORDON MURRAY (APP 42)**

- 7.1 In 1752 George Drummond, Edinburgh's progressive leader, launched the Commission of Proposals for Public Works with an ambition to "improve and enlarge the city and to adorn it with public buildings which may be for the national benefit" The case for the expansion of Edinburgh is put forward in strikingly modern terms: "Wealth is only to be obtained by trade and commerce, and these are only carried on to advantage in populous cities. There also we find the chief objects of pleasure and ambition, and there consequently all those will flock whose circumstances can afford it,"
- 7.2 Our success as a civilised society and as a nation will be measured by our children's children but will be evaluated on the basis of our contemporary culture — our present arts and our society. It cannot be otherwise. Successive generations will not only judge us on how we engaged with our built heritage but also on how much we made use of it. To avoid doing so is profligate. Thomas Hamilton was a truly innovative contemporary architect prepared to be judged by history. It is important and fundamental that we express ourselves as a contemporary early twenty-first century Scottish society with at least some aspirations toward civilisation. Our architecture of today will have varying degrees of longevity usually dependent upon notoriety. A Catalan architect who curiously worked in Edinburgh, will still be remembered in the 22nd Century for making manifest the political aspirations of a devolved Scotland. How else do we explain the vociferous nature of the discussions involving the preoccupations of a contemporary fin-de-siecle society Enlightenment Edinburgh - up to the time of Waterloo.
- 7.3 While I consider both Appeal Proposals to be worthy of this unique site and would enhance its setting, they would result in different levels of visual impact on the setting of the Category A listed Hamilton building and its existing historic fabric: the impact of Appeal Proposal 2 on its physical form and setting would be less than Appeal Proposal 1. However, I also appreciate that the sustainability, viability, and deliverability of the proposals are essential to the long-term future of this site, and that while DHP/UH consider both Appeal Proposals to be economically robust and sustainable, the reduced massing of Appeal Proposal 2 would have less

visual impact than Appeal Proposal 1. I believe the form of the initial proposals and the design decision making behind them better accord with the wider civic and urban issues facing the city and which connect the High School and Regent Terrace back to the New Town and the city of Edinburgh. On the basis of current information, I have studied from all parties involved, the Scheme 1 proposals represent a more intelligent reading of the wider context, the built form and potential for new place making, which exists in this historical context.

- 7.4 I believe that the preceding report demonstrates not only that the appellant's proposals have correctly interpreted the context and nature of both the site and the category A listed structure and that at every meeting attended; or in forums of presentation, have sought to positively respond to criticism. Using it on many occasions to innovate solutions to part of the wider problem. A problem which they recognise — that these applications are not simply about the design of additional structures in the playground of the former Royal High School but about the significant contribution the proposal can make to the townscape and urban realm of the city. Restoring physically and philosophically Hamilton's connection back to the city as well as the natural forms of landscape context in which he placed the building.
- 7.5 As is noted in several reports the viability, longevity, and resilience of the proposed hotel will be much improved by the larger of the proposed developments — scheme 1. In my view that is significant and economically underpins a preference for developing the larger hotel. It also provides the opportunity for some bold form, vertical in nature, which terminates the composition at its western end. Mediating not only the forms of the hotel but also the public space to the west: by addressing its neighbour — New St. Andrews House (Figure 54). There is a real opportunity presented by Hoskins Architects scheme 1 to create a much-improved public realm in this area with a sense of enclosure and a scale that matches those elsewhere in the city. At the same time realising Stark's concept of a bending alignment with the promise of variety and unfolding prospect." It should also be apparent that Tait, in his ingenious distribution of the mass of new St Andrews House - almost the antithesis of the Bridewell and Debter's prison, in the way it steps down the hill and articulates the mass in a series of pavilions - is providing a design approach which is redolent at a smaller scale of Hoskin's approach. There are clues and visual cues here which can anchor the new building in its place.'
- 7.6 Further this viability also underpins the resilience of the hotel i.e. its capacity to be maintained over time as a profitable luxury hotel. As has been demonstrated elsewhere in several reports, properly funded design is paramount in ensuring the attractiveness of the development and thus its longevity. HA designs in my view can achieve that high quality of architectural form and interior spaces that will ensure the hotel remains a prime visitor attraction in the city.

- 7.7 In forty years' experience of the design process, it is always enhanced by the trial and tribulations any quality proposals undergo in the statutory approvals process. All architecture benefits from the critical interrogation and thus collaboration which can instil rigour and lead to an improved design. HA have participated in all of those processes as required by the council. Indeed, in my experience continuing the process beyond consent to review detail has also in the past been beneficial to the qualities of the design. Again, Hoskins have demonstrated a preparedness to engage with such challenges.
- 7.8 A very high quality of design approach has minimised the alterations required to Hamilton's building in supporting a viable luxury hotel brand whilst ensuring that this part of the new development remains its centrepiece. In responding to the present and historical contexts of time and space the new build elements of the scheme 1 proposition in my view enhances Hamilton's design by placing it in an intended urban context with a scale which is commensurate with this wider part of the city.
- 7.9 I believe the formal response from the design team is an intelligent synthesis of the criteria established at the time of development of the brief and the historical context. The use of a complementary material — follows the design principles in a conservation environment as espoused by Carlo Scarpa where new insertions do not replicate but stand alone as interpretations (Figure 55). Therefore, we can read the copper cladding as the twenty-first century contribution to the continuing life of the Royal High School. Creating deep reveals in the façade is redolent of geometries and topographies of the sublime landscape facing the building but also echoes in a poetic non-literal way the wealth of detail in the façades which Hamilton sought to enhance the scale of his building as well as its delicacy. Both also contribute to the stature of the building.
- 7.10 It is also fundamental that the new development portrays a high quality sophisticated civilised architectural response in a contemporary society and with a rigour which ensures the building is enhanced by the further design process and not diluted. In the same way that Enric Miralles saw simple form in a landscape as the mechanism for developing his formal proposal of shells stretching into the landscape of Holyrood Park (Figure 56); or Benson + Forsyth in their new Museum of Scotland (Figure 57) which deliberately and with great depth of narrative sought to avoid replicating the lightness of the existing building but instead looked to its neighbour across the way — the Castle as the generator of the form. Both contemporary structures adjoining historically significant buildings. I believe the HA designs have a similar potential (Figure 58).
- 7.11 If we are a confident, intelligent friendly society in the early part of the twenty first century our contemporary culture should portray that confidence; that intelligence: that embracing of diversity that makes us who we are. I believe that level of ambition is apparent in these proposals

as is the vision of the client group that underpins them. Edinburgh is a city of commerce it has always been so. It has artistic pretensions, but these are funded by its commerce. George Drummond speaking in 1752 may have been expressing a current view, certainly a timeless view, to improve and enlarge the city and to adorn it with public buildings which may be for the national benefit. Wealth is only to be obtained by trade and commerce and these are only carried on to advantage in populous cities.’

7.12 In an era of depleting resources where buildings are responsible for up to 70% of the current energy consumption of our society, re-use of existing building stock is fundamental. Not to do so is profligate. Leaving a resource such as RHSE empty for half a century equally so. If we are to reverse these statistics it has to be recognised that only a sustainable long term commercially viable use will provide for a resolution of this conundrum, if we are to avoid further waste of public resources. A hotel of international luxury quality and renown is one of the few ways of balancing preservation (of the building) and conservation (of energy) whilst ensuring public accessibility as a net contributor to the public purse (Figure 59).

7.13 In my professional opinion both Appeal Proposals will satisfy the eleven Reasons for Refusal relevant to my expertise. I conclude with my responses to the two considerations raised by the reporters for inquiry session 1 consideration 2. In so doing I confirm that the designs of both Appeal Proposals are high quality and innovative designs, that the approach to their design has been conservation led and preserve the special interest of the FRHS.

## **5. HANNAH TWEEDIE (APP 43)**

### **SUMMARY/ CONCLUSIONS**

8.1 In my Inquiry Statement I have set out my arguments in support of the proposed development (Schemes One and Two). I have addressed the Reasons for Refusal 1, 4, and 6 for Scheme One, and Reasons for Refusal 2, 3 and 5 for Scheme Two.

8.2 I have considered the potential for the proposed development (Schemes One and Two) to impact upon the setting of the Former Royal High School Category A Listed Building. I have considered the potential for the proposed developments to affect the integrity of Thomas Hamilton’s original design for the former Royal High School building, and found that the ability to understand and appreciate his original design concept would not be adversely affected. I have also considered whether the proposed developments would affect the relationship between the Hamilton Building and the National Monument, and whether views towards the former Royal High School from the wider landscape would be affected by the proposed developments. I have concluded that the Hamilton Building’s position as a landmark building on the southern slopes of Calton Hill, and the potential to understand and appreciate its situation in



relation to other buildings and monuments in the vicinity would not be significantly adversely affected by either of the proposed developments (Schemes One and Two).

- 8.3 I have considered the potential for the proposed development (Schemes One and Two) to impact upon the setting of the New Town Gardens Inventory GDL. I have concluded that it would remain entirely possible to understand and appreciate the original design intention that green spaces should be integrated throughout the New Town as a contrast with the formal geometric layout of streets and buildings. Furthermore, I conclude that it would remain entirely possible to understand and appreciate the alternative, more picturesque approach taken in the laying out of the Calton Hill area of the New Town. I conclude that the proposed development (Schemes One and Two) would not have a significant effect upon the setting of the New Towns Garden Inventory GDL or adversely affect its ‘overall integrity’.
- 8.4 I have considered the potential for the proposed development (Schemes One and Two) to impact upon the setting of the National Monument Category A Listed Building. I have considered the setting of the Listed Building, and its relationship to other buildings and monuments in the vicinity, leading to the conclusion that the ability to understand and appreciate the setting of the National Monument would not be significantly affected by the proposed development (Schemes One and Two).
- 8.5 I have considered the potential for the proposed development (Schemes One and Two) to impact upon the setting of Nelson’s Monument Category A Listed Building. I have considered the setting of Nelson’s Monument, including its position on the Edinburgh skyline, and have concluded that overall it would remain entirely possible to understand and appreciate the reasons for the location of the Monument, and its relationships with other buildings and monuments in the vicinity.
- 8.6 I have considered the potential for the proposed development (Schemes One and Two) to impact upon the setting of St Andrew’s House Category A Listed Building, and have concluded that the difference in architectural styles and building material used by St Andrew’s House, the proposed developments (both Scheme One and Two), and the Hamilton Building, would ensure that the three buildings can be readily distinguished from one another, and that the setting of St Andrew’s House would not be significantly adversely affected.
- 8.7 I have considered and responded to the matters arising in the Topic Papers provided by HES. I believe that the consideration of the New Town Gardens GDL set out therein has focussed too narrowly upon only a very small part of the New Town Gardens GDL, around the proposed development site, and does not therefore properly consider the effect upon the GDL in its entirety.

8.8 Overall, I believe that the arguments set out above show that the proposed Scheme One and Two developments would not have significantly adverse effects upon the settings of those heritage assets mentioned within the Reasons for Refusal for the two schemes and would not detract from the ability to understand and appreciate the settings of these designated assets.

**6. MARC VAN GRIEKEN**

5.1 This inquiry report considers landscape, townscape and visual effects only and should be read in conjunction with evidence produced by others in respect of architecture, architectural history, cultural history, archaeology and all other environmental disciplines not covered by the townscape and visual impact assessment.

5.2 I have reviewed the assessments contained in 2015 and 2017 ES's and have visited all viewpoints within 2 ½ km from the site. I have found the assessment to be comprehensive and with a very limited number of exceptions agree with the findings. I have discussed the findings of the townscape and visual impact assessment contained in the environmental statements and my findings. As is the case with any development, there likely will be some significant effects including effects on both townscape and on visual amenity and views. In my opinion this will also have been the case when assessing effects on townscape and on visual amenity and views of the relatively new CEC offices near Waverley, the Scottish Parliament or Dynamic Earth.

5.3 I do not think the number and extent of significant effects is at all unusual and is in fact very limited both in geographic extent and in number. It is my view that this is the result of careful siting and design of the proposals. I have also considered the nature of effect in some detail and note that the number of adverse effects is very limited and note the beneficial effect of the public realm proposals.

5.4 It is my view that the Reporters can rely on the findings of the Environmental Statement with respect of townscape and visual effects.

**7. ROBERT TAVERNOR (APP 45)**

**7.0 Conclusions regarding the two Appeal Schemes**

**Introduction**

7.1 I will now set out my conclusions regarding the design of both Appeal Schemes. I will confirm my belief that both Appeal Schemes are high quality and innovative designs that will be complementary to Hamilton's Category 'A' listed building. As Mr Andrew Wright has set out in his scholarly Heritage Statement, and due to his involvement from an early stage in the design development process, the approach to their design has been conservation-led. This is confirmed by reviewing its design in relation to 'New Design in Historic Settings' (2010), good practice guidance published jointly by Architecture + Design Scotland, Historic

Scotland and Scottish Government to ensure the quality of new-design buildings matches that of their surroundings, a document to which Mr Wright contributed in 2009, and which was first published the following year (not May 2016 as stated on the HES website). I agree with Mr Wright's and Mr Mascall's conclusions that the Appeal Schemes will, in general, enhance the setting of Hamilton's FRHS, and more specifically that Appeal Schemes 2 will have a reduced effect than Appeal Schemes 1 on the setting of Hamilton's building.

### **New Design in Historic Settings, Historic Scotland (May 2016) [CD 508]**

7.2 Before setting out my final conclusions, I would like to refer the reporters to this recent Historic Scotland document, which very fairly sets out how good design by talented architects can actually enhance sensitive heritage buildings and settings, and which I would surmise may similarly have led to their support of the previous buildings: I note that Mr Mascall has referred to it extensively in his evidence too. It is stated in the Introduction to this guide that:

*The purpose of this publication is to explore how good design in historic settings is achieved. There is not one correct answer or approach of course, but there are ways of thinking and working which increase the likelihood of success. Clearly, the skill of the designer is at the heart of the issue so our aim is to set out an approach to design which will help to break down the design process into a series of steps involving interrogating, analysing and designing effective solutions that are appropriate for the specific historic context being considered. The desired outcome is the high quality design of new buildings and spaces in historic settings. (p. 3 [CD 508])*

7.3 In relation to Historic Settings' it is stated that:

*There are many aspects of successful historic places that cannot be measured easily. This publication focuses on their spatial and visual components and how proposed new development can tap into that character. By understanding the historic environment, its component parts and how they work together to create a whole, the designer will be more likely to achieve an outcome which both enhances the existing environment and the new design itself. (p.5, para 2.2 [CD 508])*

7.4 In relation to 'New Design' it is stated that:

*There is a view that new buildings in historic settings should seek to replicate existing buildings in design, appearance and materials. While this may be appropriate in specific circumstances, for example where part of a larger architectural composition had been lost, in general we believe that new interventions in historic settings do not need to look 'old' in*

*order to create a harmonious relationship with their surroundings. Some of the best recent examples are contemporary design responses. This approach suggests an honesty and confidence in our modern architecture which will be valued by future generations. (p. 5, para 2.3 [CD 508])*

7.5 This document also sets out some General Principles for New Design in Historic Settings, and proposes (p. 7, para 3.1 [CD 508]) that new development should respond to:

- Urban structure
- Urban grain
- Density and mix
- Scale
- Materials and detailing
- Landscape
- Views and landmarks
- Historical development

It is evident to me that — under the guidance of Mr Wright — the architects' DAS responds directly and positively to these principles.

#### **High quality innovative designs**

7.6 HS's New Design in Historic Settings [CD 508] concludes with exemplary case studies in Scotland. I will to add to those case studies by referring to two built high quality innovative designs that are based on similar general principles and which are pertinent to understanding the potential of the Appeal Schemes.

7.7 By way of introducing these exemplars, I should state that my architectural career over the last 45 years has been largely preoccupied with how to achieve and support high quality architectural design. This commitment was kick-started when I won a scholarship to the British School at Rome (on graduating with a distinction in architecture), followed by my PhD research at Cambridge on the definition of beauty in Italian Renaissance architecture, my publications and lectures on the classical tradition of architecture, and the direction I provided for students as a design tutor at top UK schools of architecture, working alongside leading architectural theorists and practitioners. During my years as an architectural consultant I have been fortunate to work closely alongside acknowledged world-class architects, including Norman Foster, Renzo Piano, Richard Rogers, Rafael Vinoli, and Herzog and de Meuron on major schemes that have been built in London.

7.8 Based on this work and experience I am convinced that the two Appeal Schemes by Hoskins Architects are of an exceptional architectural quality, and that the design concept that Gareth Hoskins Architects developed for this sensitive site in response to the criticism of consultees demonstrates great vision. HA were ahead of the thinking of other internationally

acclaimed architect — and I will refer here to just two recent examples that demonstrate that conclusion: the Blavatnik School of Government at Oxford by Swiss architects Herzog and de Meuron, who I worked with previously on the recently completed extension to Tate Modern in London, and the Bloomberg European HO in the City of London by Foster + Partners, which has just been completed and for which I provided townscape and heritage consultancy.

- 7.9 Both buildings are located within sensitive heritage and urban contexts and unashamedly modern and confident in character. The University of Oxford's Blavatnik School of Government is interesting for its stepped curvilinear form and its relationship with its heritage context in the Jericho Conservation Area of Oxford. It has two listed Neoclassical buildings adjacent — opposite being the Grade 11\* listed The University Printing House (The Clarendon Press). The new Bloomberg European HQ for its use of bronze sculptural fins, which allow the otherwise large expanses of glass curtain walling to fit into its historic context including the Grade I listed church of St Stephen Waibrook by Sir Christopher Wren adjacent.
- 7.10 To the immediate NW (left) of the Blavatnik building is the Grade II listed former Church of St Paul built in 1836 to the designs of H J Underwood, which has a tetrastyle Ionic portico: photos above. The Grade 11\* listed The University Printing House (The Clarendon Press) comprising two wings, north and south joined by a screen which has a central monumental entranceway, all in the Corinthian order and Bath stone, was begun in 1826 and finished in 1828 to the designs of Daniel Robertson — and is therefore contemporary with the RHS: its street elevation is reflected in the Blavatnik building in the photo below.
- 7.11 Oxford City Council's planning committee described it as "*an uncompromising contemporary design*" and that "*Many of the comments on the development relate to the contemporary design and appearance of the building and its relationship to nearby listed buildings and conservation areas, which has tended to divide opinion accordingly. [...] Overall the development's contemporary architectural style and relationships to existing buildings is considered to be appropriate to its context*". (Oxford West Area Planning Committee, Application No, 13/00119/FUL, Report dated 8 May 2013, pp. 1 and 2 respectively). The existing buildings include: Radcliffe Main Infirmary Block listed Grade 11\*, boundary walls to Woodstock Road and the Chapel listed Grade II, the nearby are Observatory (Grade 1) Observer's House (Grade I), Somerville College Library (Grade II), Oxford University Press (Grade II\*), former St Paul's Church (Freuds) (Grade II), former St Paul's School (Somerville) (Grade II), and 13-36 Woodstock Road (Grade II), The Victorian Group and Victorian Society, Georgian Group objected to the proposals, and individual objections included: "*Size and scale of building too large, Building too tall / breaches high buildings policy; Does not reflect character of area; Building too large and dominant; Materials*

*inappropriate; Adverse impact in views from port Meadow; Light pollution; Might be acceptable in more contemporary location; Adversely affects Radcliffe Observatory; Contrary' to conservation area principles; Reflection from glass façade".* The Report goes on to state that: *"some 50 written response were completed at the [public] exhibitions with the majority of comments relating to the design of the building which tended to polarise views for and against."* (Report dated 8 May 2013, pp. 6-7). The Report summarises English Heritage's response, which concludes that it would be a *"bold addition to Oxford's buildings; would not be harmful to heritage assets in immediate vicinity; effect on skyline acceptable."* (Report dated 8 May 2013, p. 4)

- 7.12 This controversial building opened in May 2016 and was shortlisted for the Stirling Prize. Oliver Wainwright in *The Guardian* described it as: *'Squaring up against the sober classical portico of Oxford University Press across the road, the Blavatnik School can seem like brassy arrival to the city of honey-coloured stone. But the longer you look, the more carefully judged it appears to be. Stepping back from the street, its proportions rhyme with its neighbours, the wafer-thin concrete slabs hover between delicate glass leaves, while its spiralling interior is one of the most uplifting spaces built in Oxford/n a century.'* (*The Guardian*, 14 July 2016); and the RIBA judges described it as a complex building in its geometry' with stacked orthogonal and rectilinear forms working brilliantly against all the odds - it is a truly inspirational piece of design and one so fitting for its purpose' (<https://www.architecture.com/awards-and-competitions-landing-page/awards/riba-regional-awards/riba-south-award-winners/blavatnik-school-of-government>): it received (among other awards) the RIBA National Award 2016, RIBA South Award 2016, RIBA South Client of the Year 2016 (see also <https://www.bsg.ox.ac.uk/our-building>).
- 7.13 I should clarify that am not citing this example because I consider that it would be an appropriate design approach that would satisfy the specifics of the Appeal site, but because it is a considered response to its specific highly sensitive heritage context in a beautiful city. This specificity is confirmed by the fact that these architects have not designed a building like this anywhere else — the extension to London's Tate Modern that I worked on with them is brick like the main building to which it is attached — though it too is a bold and original design that complements the existing former power station. I am citing it because I believe that the Appeal Schemes, in their very different locations — but still of course in a highly sensitive heritage context in a beautiful city — are similarly bold and confident designs, derived from a specific response to the site, and designed by talented architects.
- 7.14 I am also very aware of the pressures of designing modern buildings in cities recognised by UNESCO and ICOMOS as having universal outstanding value — having lived in Edinburgh and still living in Bath.

London has three World Heritage Sites — Greenwich Maritime, Tower of London, and the Palace of Westminster and Westminster Abbey — which I work regularly in relation to. In the autumn of 2006 I provided evidence to the World Heritage Committee on behalf of the British Government (DCMS) regarding the impact of tall buildings in the City of London on the setting of the Tower of London WHS (as stated in Appendix RTI, para A7). The most recently completed building in the City of London that I worked on is the Bloomberg European headquarters, which is interesting in the context of the inquiry because of its use of bronze pre-patinated sculptural fins.

7.15 The Bloomberg European headquarters building covers an urban block of over 3 acres. The building sits between St Paul’s Cathedral and the Bank of England, on the 80 site of an ancient Roman temple, the Temple of Mithras (which has been reinstated below ground). There are listed buildings adjacent, including Wren’s Grade I listed church of St Stephen Waibrook, and it is located in a conservation area. The building is characterised by a structural grid faced in Yorkshire sandstone and sculpture bronze fins placed in front of the glazed accommodation within to relate it to its historic context. It is the world’s most sustainable office building according to BREEAM and has been shortlisted among the six finalists of the 2018 Stirling Prize.

7.16 Both buildings are contextual responses to different urban situations, and both were required to preserve and leave their historic settings unharmed: arguably they have enhanced them. Hoskins Architects’ Appeal Schemes have embedded the relevant formal and material characteristics of both these built examples — principally:

- to respond to the special topography of the site and its effect on longer as well as closer views;
- to have a minimal physical effect on the Category A’ listed RHS; and
- to preserve its setting and potentially enhance its context

I am convinced the Hoskins Appeal Schemes will leave the historic and landscape setting of the FRHS unharmed and will enhance them.

7.17 Indeed, as I observe in section 2 of my inquiry report, the Calton Hill Conservation Plan (CHCP) considers that not only the Neoclassical monuments, but Tait’s contrastingly massive and modern beaux-arts building — “*possibly the best inter-war building in Scotland*” — combine to contribute positively to the setting of Calton Hill: “*Not only are these distinguished buildings in themselves, but the sublime manner in which they respond to their magnificent sites adds greatly to the importance of the composition of which the hill itself is the focus*” (CHOP [CD 481], pp. 102 and 138). It follows, of course, that if the Appeal Schemes are regarded as ‘distinguished’, and the setting of the FRHS can be enhanced by the removal of less important and detrimental buildings on the Appeal

Site (as set out in detail in Mr Wright’s Heritage Statement and inquiry report, and referred to in my section 2 above), the Appeal Schemes, reasonably, may also enhance this sublime experience.

### **Final conclusions**

- 7.18 Architectural designs take time to be brought to maturity, and the maturing process benefits clear guidance, informed and positive support, and constructive criticism. I appreciate it would have been unusual if the innovative and bold design proposals for the two Appeal Schemes were to have journeyed through the planning process in relation to such a prominent Category ‘A’ listed building in a WHS, in Scotland’s capital were to have gone unchallenged by the relevant statutory consultees. But it is incumbent on the statutory authorities to be fair and unprejudiced in their responses, and I am concerned that they have been insufficiently balanced and equal in consideration of the Appeal Schemes and the RHSPT/RMA scheme.
- 7.19 The fact that the design proposals by DHP/UH and Hoskins Architects were developed from a CEC brief, and were selected from a range of developer responses as the most suitable for this sensitive site by the CEC, appears to have had no bearing on the subsequent design debates. Are the CEC prepared to concede that its officers, councillors and experienced professional advisors all got it wrong, and that the outcome of that long and expensive process led by one of Scotland’s finest younger architects was misguided?
- 7.20 DHP/UH’s intention to provide hotel wings either side of the Hamilton centrepiece had been presented to CEC’s Selection Panel at the competitive bid stage: the late Professor Charles McKean, who chaired the Selection Panel, considered that the hotel proposals would act as a catalyst to reinvigorate Regent Road and Calton Hill, and would contribute to the Outstanding Universal Value (OUV) of the World Heritage Site. As CEC panel member Riccardo Marini, City Design Leader, committed to writing (email dated 16 August 2015 [CD 039, p. 81]):

*“I think that everyone in the select/on panel and all the senior officers involved supported the principles of your proposals. The detail will have to be resolved but the approach of using a modern architecture to complement the existing setting and buildings was the right one in the context of your proposals”.*

Also, as Competitive Dialogue panel member Jane Dennyson, Project Manager of City Development, stated (in her email of 16 August 2015 [CD 039, p. 9]):

*“The plans to transform the former RHS into a high quality art hotel outlined robust proposals to deliver significant social and economic benefit to the City, whilst integrating well and*



*enhancing the surrounding physical development plans at that time.”*

The only vestige of this early and collective appreciation of the Hoskins design concept for the site by the panellists is the acknowledgment in both CEC Decision Notices that the proposed new hotel accommodation wings have a ‘sophisticated’ design.

- 7.21 A major factor in the subsequent volte face by the CEC would appear to be the alternative scheme for the Appeal Site, backed by the RHSPT for the adaptation of the FRHS as a Music School and designed by Richard Murphy Architects (RMA) a distinguished Edinburgh architect. The immediately obvious benefit of this proposal is that it is a school whose intended occupier, like the RHS, has a distinguished reputation. Also, the visibility of the scheme has been kept low by burying much of the school accommodation around internal top lit courtyards, and it has been designed to accommodate the north and eastern parts of the site, leaving the west side as designed landscape. If this physical approach to the site and a cultural building is preferred to that of the Appeal Schemes, it is concerning that the CEC Competitive Dialogue process did not result in appointing Whiteburn Projects as preferred developer (with their proposals for The Agora [CD APP 33]) rather than the appellants. I believe their initial judgment to have been sound.
- 7.22 I have pointed out that occupying the north part of the site will reduce the visibility on Hamilton’s north elevation for the public from Calton Hill Drive, but of fundamental importance is that Hamilton conceived the north elevation as the principal arrival point into his building, while the RHSPT/RMA scheme makes a ‘radical alteration’ (to use HESs term of criticism) by moving the main public point of arrival to Regent Road leading to a large new foyer excavated from solid rock under the main portico of the Category ‘A’ listed building, involving substantial removal of original fabric (at unknown but potentially great risk and expense), and certain irreversible physical harm. This would devalue the special interest of the FRHS, which has not been acknowledged by HES or CEC, and nor have they properly questioned the viability and sustainability of the RHSPT/RMA scheme — how the high costs of development will be paid for, and how the school will accommodate potential expansion of its facilities — to avoid what was forced on the RHS, to move elsewhere.
- 7.23 These risks and uncertainties would be avoided should one or other of the Appeal Schemes be granted planning consent — which is why the CEC Competitive Dialogue was set up in the first place, and which led to the appellant being granted preferred developer status. My unequivocal conclusion is that the appellants’ design and planning team developed a highly credible and sustainable concept for revitalising the long dormant FRHS. Based on my direct cultural and architectural experience of Edinburgh and having read the relevant documentation relating to the two

Appeal Schemes, benefitted from a detailed tour of the interiors and exteriors of the existing buildings, and having visited and studied the key views, my professional judgment is that both Appeal Schemes merit approval.

- 7.24 I am very aware — as an architectural historian and consultant architect — that throughout history inserting new buildings into existing and cherished places will split opinion, and that negative voices are often louder through their stridency than reasoned judgment. In London I work regularly on very major schemes that affect the setting of three World Heritage Sites (Greenwich Maritime, Tower of London and Westminster). I live in the World Heritage City of Bath and I am a Trustee of Bath Preservation Trust — these are constant battle grounds. But healthy cities constantly evolve to reflect the changing needs and aspirations (social and cultural) of different ages, and the citizens of great cities acknowledge and accept the very best of contemporary architecture to the benefit of today and to create tomorrow's history.
- 7.25 Edinburgh took a bold architectural stance in the 18th century when it expanded northwards. The Old Town of Edinburgh is an organic urban response to its extraordinary geology and topography, the classical grid of the New Town was imposed on the land and the 'Nor' or North Loch drained, bridged and eventually contained a railway station. Calton Hill has changed too since Hamilton carved a platform into its rock to build the RHS. The Scottish Parliament Building is a bold — and controversial — organic insertion into the Old Town, but — now built and occupied — it has enhanced that part of the city as well as its international reputation. I believe that the Appeal Schemes would do something similar: they are high quality, innovative, organically conceived designs. So, while their designs have been conservation-led by Andrew Wright to preserve the special interest of Hamilton's FRHS, they will augment and complement it too, creating a new building/landscape context that will be sustainable and will enhance the setting of Hamilton's FRHS.
- 7.26 While I consider both Appeal Schemes to be worthy of this unique site and would enhance its setting, it is evident that they would result in different levels of impact on the setting of the Category 'A' listed Hamilton building and its existing historic fabric: the impact of Appeal Scheme 2 on its physical form and setting would be less than Appeal Scheme 1 however, I also appreciate that the sustainability (and viability) of the proposals is essential to the long-term future of this site, and that while DHP/UH consider both Appeal Schemes to be economically robust and sustainable, the reduced massing of Appeal Scheme 2 would have less visual impact than Appeal Scheme 1. Also, both hotel schemes could be demolished in the future and the current form of the listed building reinstated. Meanwhile, the FRHS will be restored to its former glory and will provide a publicly accessible focus to the south side of Calton Hill reinvigorating this locality by night as well as by day. Both designs by Hoskins Architects

would leave the Special Interest of Hamilton’s Category ‘A’ listed FRHS and the setting of Calton Hill and World Heritage Site unharmed — indeed, I believe the high quality of their designs are such that they will enhance the appeal site and will reinforce this place as a positive destination within this exceptionally beautiful city.

### **Responses to the Reasons for Refusal**

7.27 For the reasons I have set out above and in relation to my design-focused inquiry report, I do not agree with the Reasons for Refusal that CEC allege, and although I believe that Appeal Schemes 2 will have less effect on the setting and fabric of the Hamilton Building than Appeal Schemes 1, this is not reflected in the CEC’s Reasons for Refusals for Appeal Schemes 2, which adds an additional reason. I have therefore merged the two sets of refusal reasons for the Appeal Schemes as set out in the CEC Decision Notices of 18 and 21 December 2015 (for Appeal Schemes 1 [CD 430-1]) and 11 September 2017 (for Appeal Schemes 2 [CD 432-3]). Reasons 1 to 9, and 12 apply to both Appeal Schemes, reason 11 to Appeal Schemes 2 only. Reason 10 is not pertinent to my expertise.

7.28 I firmly believe that:

1. The Appeal Schemes satisfy Policy Env 1 of the Edinburgh Local Development Plan, in respect of the World Heritage Site, as they would leave unharmed the qualities which justified the inscription of the Old and New Towns of Edinburgh as a World Heritage Site, which in relation to the application site comprise the outstanding set-piece of neo-classical architecture, the topography, the townscape and juxtaposition of Old and New Towns; and as a result would not have a detrimental impact on the Site’s Outstanding Universal Value.
2. The Appeal Schemes satisfy policy Env 2 of the Edinburgh Local Development Plan, in respect of Listed Buildings - Demolition, as the buildings remain of architectural and historic importance and the merits of the proposed replacement buildings, and the public benefits to be derived from the development would outweigh the loss of the buildings to be demolished.
3. The Appeal Schemes satisfy Policy Env 3 of the Edinburgh Local Development Plan, in respect of Listed Buildings - Setting, as the proposed extensions have a sophisticated design, and their height, scale and massing are visually complementary to the character and appearance of the Category A’ listed, principal school building and enhance its setting, and would leave the setting of the National Monument, Nelson Monument and St. Andrew’s House unharmed.

4. The Appeal Schemes satisfy Policy Env 4 of the Edinburgh Local Development Plan, in respect of Listed Buildings - Alterations and Extensions, as the proposed extensions are visually complementary in relation to the Category 'A' listed, principal school building, owing to their sophisticated design and appropriate height scale and massing they are compatible with the character of the existing building and leave unharmed its special interest.
5. The Appeal Schemes satisfy Policy Env 7 of the Edinburgh Local Plan, in respect of Historic Gardens and Designed Landscapes, as the proposed extensions by reason of their appropriate height, scale and massing at this highly prominent and sensitive site on Calton Hill would be complementary to the character of Calton Hill which is part of the Inventory of Gardens and Designed Landscapes 'The New Town Gardens' and would have a beneficial or neutral impact overall on views to, from and within this Inventory listed site.
6. The Appeal Schemes satisfy Policy Env 11 of the Edinburgh Local Plan in respect of Special Landscape Areas, as it would leave unharmed the special character and qualities of the Special Landscape Area at Calton Hill and views thereof, its sophisticated design complementing the semi-natural hillside and the built features of the hill, as well as enhancing the appreciation of the profile of this prominent landscape formation.
7. The Appeal Schemes satisfy Edinburgh Local Development Plan policy Des 1, in respect of Design Quality and Context, owing to the sophisticated design and appropriately balanced height scale and massing of the proposed extensions and the success of their design to draw upon the positive characteristics of the historic topography of the site, reinforcing the existing sense of place at this highly sensitive and prominent location, within the curtilage of the Category A' listed building, in the New Town Conservation Area and World Heritage Site.
8. The Appeal Schemes satisfy Policy Des 4 of the Edinburgh Local Development Plan, in respect of Development Design - Impact on Setting, as they would have a positive impact on its surroundings overall, owing to the sophisticated design and appropriately balanced height scale and massing of the proposed extensions, which are visually complementary and have a beneficial or neutral impact on the wider townscape, which includes the Old and New Town Conservation Areas and views thereof.

9. The Appeal Schemes satisfy Policy Des 11 of the Edinburgh Local Development Plan, in respect of Tall Buildings - Skyline and Views, as the proposed extensions have a sophisticated topographic character and do not rise above the prevailing building height in the surrounding area, have no impact on the skyline and would have a beneficial or neutral impact overall on important views of the Category 'A' listed, principal school building at this site, which is a key landmark, as well as on views of the landscape on Calton Hill and the listed monuments on this hill.
- (10. Not pertinent to my inquiry report)
11. (applied by CEC to Appeal Scheme 2 only). The Appeal Schemes satisfy Policy Del 2 - City Centre of the Edinburgh Local Development Plan as the proposed extensions would maintain and enhance the character and appearance of this area of the city centre and accord with the principle of the Princes Street Development Brief Block 10, in relation to respecting and enhancing key views to and from this area. The Appeal Schemes do not propose a cultural or civic use. However, the CEO Finance and Resources Committee Report reported (16 March 2010 — and see my para 3.3 above): *“To ensure the integrity of the Competitive Dialogue process, all proposals complied with the Block 10 (String of Pearls) development brief approved at Planning Committee on 15 May 2008. Other selection criteria included the contribution to Edinburgh’s offer as a tourism destination, project deliverability, functionality (the appropriate use for an iconic building) and commercial potential.”* Also, in relation to the Decision Notice for Appeal Schemes 1 (dated 21 December 2015) it is stated that: *“The proposals for demolition do show that the luxury hotel proposal would provide an offering to Edinburgh bringing economic benefits to the city, region and nation”*.
12. The Appeal Schemes satisfy Policy Env 6 of the Edinburgh Local Development Plan as the proposed extensions would maintain and enhance the character and setting of the historic and natural assets which are integral to the New Town Conservation Area. They would safeguard views to and from the Old Town Conservation Area, thereby leaving its special character unharmed.

#### **Final responses to the considerations raised by the Reporters**

- 7.29 My design evidence has been set out to address two considerations raised by the reporters for inquiry session 1: namely, 2 and 4.
- 7.30 In relation to (2) *architectural design quality*, I have no doubt that the Appeal Schemes are of the highest design quality and that they have been

conceived for this specific site with full cognisance of the opportunities and considerable constraints associated with it, and that the resulting design is innovative and will be sustainable (in every sense of the term). I believe this long-neglected place will be reinvigorated, by night as well as day by the hotel proposals and the publicly accessible facilities they will offer, and that this will become a positive destination at the threshold between city and country: it will be a memorable place once again. If, at a future date the hotel no longer suits this location it can be removed having caused minimal harm to the fabric of the Category A listed building. Its special interest will be preserved.

7.31 In relation to (4) *assessment of the consented RHSPT scheme, but restricted to the question of whether there are other options which would ensure a continuing beneficial use for the building with less impact on its special interest, as set out in the HES Policy Statement paragraph 3.47 (c)*, I conclude that overall the Appeal Schemes would have less impact on the special interest of the FRHS than the RHSPT scheme because:

- both provide public access to the FRHS, however, the Appeal Schemes work with the existing layout of the FRHS; while the RHSPT provides a new public point of entry from Regent Road, requiring radical alterations to the character and design intent of the principal element of the main elevation of the listed building — something that the Whiteburn Projects' Competitive Dialogue proposals had earlier considered and rejected [CD APP 33], and an approach that HES (then HS) subsequently warned the appellants' team against pursuing;
- both require the demolition of later buildings set around Hamilton's main building, some of which are listed (but see Mr Wright's very clear evidence in this respect), the Appeal Schemes additionally requires the demolition of the listed gate lodge; however, the quantity of demolition of the existing Hamilton building by the RHSPT scheme to provide a new entrance foyer beneath the auditorium is considerably greater and will cause irreversible physical harm to Hamilton's building, which the proposed demolition works for the Appeal Schemes will not;
- the proposed demolitions to Hamilton's main building for the Appeal Schemes are reversible and will not threaten its structural stability or the fine jointing of its Craigleith stone (which can no longer be quarried); similarly the potential harm to its structure for the RHSPT scheme from excavating the solid basalt foundations would be irreversible;
- externally, the portico of Hamilton's main building will be left physically unchanged by the Appeal Schemes; with the RHSPT scheme a large new opening will be cut into its external wall at base harming its special interest;

- the main elements of Hamilton’s north elevation will remain visible with the Appeal Schemes (more so with Appeal Scheme 2) and a spacious approach to it will be maintained with unencumbered views from Calton Hill Drive; with the RHSPT scheme the existing space between the north elevation and the retaining wall will be squeezed by the proposed north range of buildings and octagonal pavilions and concealed from view;
- the architecture of the proposed accommodation wings of the Appeal Schemes is derived from the topography of the site and is organic in character and clearly distinguishable from Hamilton’s main building — the idea of inhabited ‘knowes’ chimes with Hamilton’s own depiction and acceptance of the rugged setting of his design in 1827 (see drawings 3-7a-d illustrated above) as a craggy (sublime) contrast to his perfect classical forms; the RHSPT scheme derives its architectural language directly from Hamilton’s design, with three octagonal pavilions derived from Hamilton’s two octagonal rooms, laid out asymmetrically and expressed with simplified classical details and modern materials (zinc and timber screens) and a stone that will appear different to the original Craigleith sandstone and that will weather differently over time: and
- Hoskins Architects’ wings are designed to be seen (and with reduced vscale and mass to the west wing of Appeal Scheme 2) and to provide the FRHS with a new strong backdrop which — having cleared away the clutter of the existing site — would enhance its setting; while Richard Murphy Architects’ design is intended to have a recessive appearance, it will also be visible from the western entry approach and from Calton Hill and from adjacent to the Burns Monument — and, in my professional opinion, what will be visible of its architecture will detract from and not complement Hamilton’s masterpiece.

7.32 It is evident to me that the potentially irreversible harm, risks and uncertainties associated with the RHSPT scheme would be avoided should the Appeal Schemes be granted planning consent. I therefore wholeheartedly commend both Appeal Schemes to the reporters and the Scottish Ministers.

## 8. GARY MAPPIN (APP 46)

### SUMMARY & CONCLUSIONS

- 5.1 In the first instance I would like to summarise the key issues raised in the reasons for refusal, and note how the proposals address these.
- 5.2 There were 12 reasons for refusal of the 2017 Planning Application. These effectively repeat the terms of the 2015 refusal (noting the subsequent adoption of the LDP), albeit with an additional 12th reason for refusal. I have provided comment following each of the reasons.

1. *The development is contrary to policy Env 1 of the Edinburgh Local Development Plan, in respect of the World Heritage Site, as it would harm the qualities which justified the inscription of the Old and New Towns of Edinburgh as a World Heritage Site, which in relation to the application site comprise the outstanding set-piece of neo-classical architecture, the topography, the townscape and juxtaposition of Old and New Towns; and as a result would have a detrimental impact on the Site's Outstanding Universal Value.*
  - The detailed evidence submitted with the applications and appeals clearly demonstrates that the proposals would not harm the Outstanding Universal Value of the WHS and would in some respects enhance it.
2. *The proposal is contrary to policy Env 2 of the Edinburgh Local Development Plan, in respect of Listed Buildings - Demolition as the buildings remain of architectural and historic importance and the merits of the proposed replacement buildings and the public benefits to be derived from the development would not outweigh the loss of the buildings to be demolished.*
  - The proposal satisfies the HESPS tests. The special nature of the hotel and the scale of its socio-economic benefits should be regarded of national importance. The proposed demolition is fully justified as the demonstrable benefits would outweigh the loss of buildings which are of lesser merit than Hamilton's centrepiece.
3. *The proposal is contrary to policy Env 3 of the Edinburgh Local Development Plan, in respect of Listed Buildings - Setting, as the proposed extensions, which owing to their excessive height, scale and massing are visually dominant and detrimental to the character and appearance of the category 'A' listed, principal school building and detract from its setting and furthermore would detract from the setting of the National Monument, Nelson Monument and St Andrew's House.*
  - Setting issues have been comprehensively addressed. The proposals are of the highest architectural merit. The scale of new build complements the monuments yet is recessive and respectful of the main building to which it would make a positive contribution. Impacts on setting have been minimised, and are not significantly adverse.
4. *The proposal is contrary to Policy Env 4 of the Edinburgh Local Development Plan, in respect of Listed Buildings - Alterations and Extensions, as the proposed extensions which are visually dominant in relation to the category 'A' listed, principal school building, owing to their excessive height scale and massing, are*



*incompatible with the character of the existing building and diminish its special interest.*

- The proposals would enhance the principal listed building and any impacts are minimised.
5. *The proposal is contrary to Policy Env 7 of the Edinburgh Local Development Plan, in respect of Historic Gardens and Designed Landscapes, as the proposed extensions by reason of their inappropriate height, scale and massing at this highly prominent and sensitive site on Ca/ton Hill would be detrimental to the character of Ca/ton Hill which is part of the Inventory of Gardens and Designed Landscapes ‘The New Town Gardens’ and would have an adverse impact on views to, from and within this Inventory listed site.*
- The impact on the wider landscape and specific features is not unusual in an urban setting, and is minimal in any case.
6. *The proposal is contrary to Policy Env 11 of the Edinburgh Local Development Plan in respect of Special Landscape Area, as it would have a significant adverse impact on the special character and qualities of the Special Landscape Area at Ca/ton Hill and views thereof, as a result of changes to the balance between the semi-natural hillside and the built features of the hill, as well as the appreciation of the profile of this prominent landscape formation.*
- There would be no significant adverse impact overall on landscape features of acknowledged importance.
7. *The proposal is contrary to Edinburgh Local Development Plan policy Des 1, in respect of Design Quality and Context, owing to the excessive height, scale and massing of the proposed extensions and the failure of their design to draw upon the positive characteristics of the surrounding area, or to reinforce the existing sense of place at this highly sensitive and prominent location, within the curtilage of the Category ‘A’ listed building in the New Town Conservation Area and World Heritage Site.*
- The original proposals were commended in terms of architectural approach. The design of both schemes responds to the carefully understood context and will make a positive contribution to the surrounding area with no significant adverse impact on heritage assets.
8. *The proposal is contrary to policy Des 4 of the Edinburgh Local Development Plan, in respect of Development Design — Impact on Setting as it would fail to have a positive impact on its surroundings, owing to the inappropriate height, scale and massing of the proposed extensions, which are visually dominant*

*and have a detrimental impact on the wider townscape, which includes the Old and New Town Conservation Areas and views thereof.*

- The original proposals were commended in terms of architectural approach. The design of both schemes responds to the carefully understood context and will make a positive contribution to the surrounding area with no significant adverse impact on heritage assets.
9. *The proposal is contrary to policy Des 11 of the Edinburgh Local Development Plan, in respect of Tall Buildings — Skyline and Views, as the proposed extensions which rise above the prevailing building height in the surrounding area, fail to enhance the skyline and would have an adverse impact on important views of the category ‘A’listed, principal school building at this site, which is a key landmark, as well as impacting adversely on views of the landscape on Calton Hill and the listed monuments on this hill.*
- The proposals respect the prevailing building height and cannot be considered ‘tall’ buildings that impact negatively on the skyline, Impact on other selected views have been assessed on which there are some beneficial effects with only limited adverse impacts.
10. *The proposal is contrary to policy Des 5 of the Edinburgh Local Development Plan in respect of Development Design — Amenity, as it would result in an adverse impact on the amenity of neighbouring Occupiers, owing to a material loss of sunlight provision to the property at number 1 Regent Terrace.*
- It has been demonstrated in separate submissions that there will be no material loss of sunlight provision to neighbouring property.
11. *The proposal in contrary to Policy Del 2 — City Centre of the Edinburgh Local Development Plan as the proposed extensions would fail to maintain or enhance the character and appearance of this area of the city centre or to accord with the principle of the Princes Street Development Brief Block 10, in relation to enhancing key views to and from this area and does not propose a civic or cultural use.*
- The character and appearance of the area, as well as key views, have been fully appreciated and assessed. The proposals would bring a building back into longterm use after 50 years, contributing to the activity, safety and security of the area. The design is well-considered and of the highest quality, respectful of the context. The use as a hotel has never been disputed, and the developers were appointed on the basis of delivering that use. A key element of the hotel proposal is an arts and cultural dimension.

12. *The propose/is contrary to Policy Env 6 of the Edinburgh Local Development Plan as it would harm the character and setting of the historic and natural assets which are integral to the New Town Conservation Area. It also fails to safeguard views to and from the Old Town Conservation Area, thereby damaging its special character.*

- The impact on the character and setting of the conservation area and other historic and natural assets has been comprehensively assessed. Relevant views have been analysed and there will be no overall negative impact.

5.3 There were four reasons for refusal of the 2017 Listed Building Consent Application, which were as follows:

1. *The proposal is contrary to Edinburgh Local Development P/an Policy Env 4 in respect of Listed Buildings - Alterations and Extensions, as the proposals fail to respect the architectural integrity, composition and special character of the listed building.*

- The design of the proposals and the impact on heritage assets has been comprehensively explored and assessed. The impact on special character of the principal listed building have been minimised and are acceptable, while still ensuring that the proposals are viable to bring the building back into long-term sustainable use.

2. *The proposal is contrary to Edinburgh Local Development P/an Policy Env 3 in respect of Listed Buildings — Setting, as the proposals compromise the unique understanding and appreciation of the listed building.*

- The understanding of the principal listed buildings and their setting is a matter of dispute between the appellants' team, CEO and consultees. The proposals are based on a robust and credible understanding of the site and buildings. Impacts on setting would not be adverse overall

3. *The proposal is contrary to Edinburgh Local Development Plan Policy Env 2 in respect of Listed Buildings — Demolition, as the corresponding planning application is not acceptable and the proposals do not satisfy the requirements of HESPS.*

- The planning applications at appeal should be supported in terms of the development plan and other material considerations. The proposals are justified in design terms and because of their significant economic benefit. This is in accordance with HESPS and the LDP.

4. *The proposals are contrary to non-statutory guidance on Listed Buildings and Conservation Areas as by virtue of their size, mass and form the proposals fail to respect the architectural composition of the listed building.*

- The design has been fully considered in relation to scale, mass, layout and form based on a comprehensive understanding of the site's historic and physical context. The proposals entirely respect the principal listed buildings.

5.4 In general terms the proposed development of the FRHS would provide Edinburgh, and Scotland, with a quality of hotel not previously seen in an urban location. The history of the property and the planning, design and heritage considerations have been thoroughly researched and considered by the appellants.

5.5 The building has not been beneficially occupied since its closure as a school in 1968. Successive owners have been unable to identify a viable long-term use for the buildings. The developer competition in 2009 required a commercially sustainable proposal for the property. This resulted in the appointment of developers who have identified a credible and viable use for the site, and principal buildings.

5.6 In bringing forward revised proposals, the appellants responded to the terms of the December 2015 decision and the subsequent pre-application consultation exercise. This resulted in significant reduction in the scale of development and the level of intervention in the listed buildings. The original scheme retains planning merit and should also be supported given its architectural quality and enhanced economic benefits.

5.7 The appellants have presented evidence to confirm that a world-class hotel such as that proposed could not be delivered at another location in the city. The luxury hotel sector is unrepresented in Edinburgh and attracting such operators will enable the city to compete with others across Europe. There is a clear commitment from the appellants to deliver a world class hotel development. A world class hotel operator in Rosewood Hotels remains fully committed to the project. This is not a speculative venture, but a project with a defined path to achieving the significant benefits that the hotel would generate for the city, region and Scotland as a whole.

5.8 Evidence has been presented to confirm that the level of development proposed is the minimum required to make the Scheme 2 viable. No other use or combination of uses, for the existing buildings with a lesser amount of new development would yield a viable alternative approach.

5.9 The proposed development would bring significant wider economic benefits, as well as the restoration and reuse of the principal listed school building. It will also allow public access for the first time and yield significant community, environmental and cultural benefits.

- 5.10 The architectural design is of the highest quality and will complement the character and setting of the main listed building. The appellant disputes that any new buildings at the FRHS should be hidden from view and considers that modern architecture facilitates an acceptable blend with the historic environment.
- 5.11 The proposals would have limited impact on the special interest of the retained listed buildings, and not to a significant degree. The original school building and pavilions would be restored and re-used. The new elements proposed would be of the highest architectural quality. On balance the development would make a positive contribution in terms to the setting of the retained listed buildings, Calton Hill, the World Heritage Site, other heritage designations and the wider city.
- 5.12 If the appellants' expert evidence is accepted, the proposals must be found to accord with the development plan. The National Planning Framework and Scottish Planning Policy are also supportive. The proposals meet the requirements of the Historic Environment Scotland Policy. The proposals also support national economic and tourism policy initiatives.
- 5.13 No evidence has been produced to demonstrate that the proposal being advanced as an alternative development is deliverable. Notwithstanding, the RHSPT proposal has significant drawbacks in relation to key planning and heritage considerations.
- 5.14 The environmental impact of the proposals would be acceptable. There has been significant public interest in and support for the development in the pre-application discussions.
- 5.15 I would ask that the appellants position on the planning merits is given due consideration, and that planning permission and listed building consent is granted on appeal for both schemes.

## **5. CITY OF EDINBURGH COUNCIL [CEC]**

- 5.1 The evidence of CEC will no doubt attract some scrutiny and some weight because CEC are the planning authority.
- 5.2 I propose to consider the evidence in a little detail in order to establish what weight should attach to the CEC evidence.

### **Mr Leslie**

- 5.3 The evidence of Mr Leslie was I submit delivered in a fair minded and transparent fashion. The evidence confirmed various issues:
- new development had recently been consented on the very top of Calton Hill by CEC. This is a new café/restaurant which is highly visible, particular at night from many many locations. The building included interestingly the use of pre-patinated copper. Associated with the development is the demolition of three A listed structures. This is all taking place within very close proximity to the various monuments. I

submit that a site visit may assist in an understanding of this issue. What is clear is that anyone who suggested that Calton Hill is unchanged or largely undeveloped is quite simply wrong.

- Mr Leslie also confirmed that CEC accepted the failure of the Hill/Adamson proposal to develop the RHS as a photographic museum, after nine years, and so decided to advertise Europe wide for bids to redevelop the RHS site.
- CD161 page 2 confirms the history and that this proposal collapsed in 2009 due to a lack of finance. (See background section for details).
- a competition was launched on 1 July 2009.
- Mr Leslie confirmed by reference to various documents (CD440, 442, 443, 444) that the Appellants won the competition and there were more than 50 applicants
- CD161 at 6.3 confirms that all CEC departments were involved in this selection process. "All proposals required to comply with the string of pearls development brief".
- Mr Leslie also accepted that all departments (including the Planning Department) of CEC were involved in awarding the contract to the Appellants. The various documents confirm that the proposals quite clearly met the brief by CEC.
- Mr Leslie accepted, properly and fairly, that the latter part of the test at para. 3.48(d) of HESPS test had been met. This is considered in detail later in this submission.
- Thereafter workshops were established to advance the detail of the proposals. Mr Girvan and Mr Nicholson attended the workshops. Both are Architects. Neither gave evidence at the Inquiry for reasons never fully explained. Whether the reason is that one or other or both actually supported the proposals must remain a matter of conjecture - but it seems a curious situation.
- In any event Mr Leslie gave detailed advice on 8 January 2015 (CD 378 Appendix 6). As set out in the Appellant's evidence the Appellant's believe they have complied with all details of that advice contained in CD 378 except the issue of pushing development back to the rear for reasons fully explained by the Appellant's witnesses. It is interesting that CEC issued further advice (CD 383). This advice was seen and apparently approved by HES. This shows significant development to the east, some development to the west and it accepts the possibility of demolishing all four buildings. This advice is considered in detail elsewhere.
- It is critical to realise that at no time did CEC ever suggest that two wings were not appropriate. It is also critical to stress that the Appellants won the competition on the basis of two wings of some considerable scale,

height and massing. Indeed this scale, height and massing is very similar indeed to the proposals before the Inquiry.

5.4 The CEC requirement was for a minimum of 120 bedrooms to “ensure quality” Mr Leslie told us.

5.5 I put to Mr Leslie in cross that the conclusions must be:

- (i) The Appellants won the competition in the face of considerable opposition
- (ii) The “winning bid” showed considerable development to the east and west of the main Hamilton building. I refer to the Inquiry Report of Professor Tavernor at page 23 and the Inquiry Report of Gordon Gibb at page 7 for details.
- (iii) At all times in the design process significant buildings were shown to the east and west. I refer again to the Inquiry Report of Professor Tavernor pages 30/31.
- (iv) CEC from the outset accepted the possibility of the four listed buildings being demolished.
- (v) CEC accepted that policy supported a hotel here.
- (vi) Mr Leslie also accepted that at this time there is no real prospect of the RHSPT scheme proceeding. Indeed CD161 at para. 11.1 states “there is no prospect of these proposals going forward at this time” (emphasis added). This means the tests in HESPS para 3.47(c) of “ensuring” simply cannot be met. If that is correct that is the end of the relevance of the RHSPT proposal.

5.6 I submit that considerable weight should attach to the fair and reasonable evidence of Mr Leslie. In addition almost all of his evidence is supportive of the proposals of the Appellants.

#### **Carla Parkes**

5.7 Ms Parkes was the case officer for both applications and accordingly was responsible for the two reports. Ms Parkes confirmed in cross that the report CD419 represented her own professional opinion and also that of her department.

5.8 Accordingly I quote here several sections of the Report CD419:

“The proposed provision of the hotel development at this city centre location complies, in general terms, with sustainable development principles relating to accessibility, owing to its central area location, where public transport facilities are readily available. The re-use of an existing building also contributes to the sustainable nature of the development. The proposals will introduce a high quality, mixed-use development on an underused site which promote place making and contribute to the economic growth and general well being of the wider City. The proposals are considered to be consistent with these principles. The extent to which these proposals meet other SPP principles, notably those relating to the protection of the cultural and natural heritage, quality of place, as well as economic impacts, are taken into account in the relevant sections of this assessment.” (page 13 last para.)

“ECLP Policy Emp 6 (hotel developments) states that hotel development will be permitted in the central area, where development may be required to form part of

mixed use schemes, if necessary to maintain city centre diversity and vitality, especially retail vitality on important shopping frontages. The site is not in retail frontage, therefore there is no requirement to provide mixed use at ground floor level. The proposed hotel use is acceptable in relation to local plan policy. This policy is echoed by Policy Emp 10 of the LDP.

Under ECLP Policy Ret 12 of the ECLP and Policy Ret 10 of the LDP the change of use of premises to restaurant or public house uses is only supported where there would be no unacceptable increase in noise disturbance or other impacts, which would be detrimental to residential amenity; and providing the premises are not located in an area where there is an existing concentration of such use uses. The proposed development is not situated in an area where there is a concentration of such use types. The potential impact of the proposed class 3 restaurant and public house uses on neighbouring amenity is addressed in section 3.3(i) below.

The site is located in the Central Area as designated under Edinburgh City Local Plan (ECLP) policy Ca 1, which supports proposals for comprehensive development schemes which accord with the provisions of the relevant site development brief or guidance. This policy also provides that the use should be suitable for the site, its characteristics and level of accessibility.”

### **Princes Street Block 10 Development Brief**

The Princes Street Block 10 Development Brief - Approved by Planning Committee 15 May 2008 sets out development principles for the Royal High School and its immediate surroundings. The three principles are:

1. to promote the viable re-use of the former Royal High School and campus buildings as a visitor facility and civic/cultural destination;
2. to enhance movement and access to and from the former Royal High School campus and the Old Town; and
3. to respect and enhance key views to and from the area and protect the setting of the former Royal High School. (emphasis added)

Although seven years old, these principles remain relevant.

In relation to principle 1, this guidance supports hotel use at the eastern end of the site, highlighting the Gym Hall and the 1924 luncheon hall building as a development opportunity for such a use. The guidance also seeks cultural, orientation and information use as well as museum and exhibition use and other mixed uses for the remainder of the site. Nevertheless, the proposed hotel use is consistent enough with the aims of principle 1 of the Development Brief as to comply with it. (emphasis added)

“In relation to access to and around the site, this is assessed in section 3.3.j). In relation to the impacts on the Royal High School, this is assessed in detail in section 3.3b) as well as in sections 3.3 c), d), e) and f).

In conclusion, in respect of SPP generally, local plan policy and the Princes Street Block 10 Development Brief, the proposed hotel use is acceptable in principle, subject to other policy considerations”. (pages 14/15) (emphasis added)



“The proposed glazed link buildings to be attached to the rear elevation of the listed building are acceptable in principle. It is recognised that the building suffers from a lack of circulation due to the plan form of the building. Though an addition to the rear of the building is not ideal, the approach adopted is visually lightweight and sensitively handled.” (page 17)

“The modification of the rear windows to new entrance doors, as part of the proposals for the north elevation to be the main entrance to the hotel, is acceptable. Whilst access to the building will be possible to the south of the building from Regent Road, the north elevation provides the opportunity to create the entrance to the hotel and the lowering of the windows to doors is, in this instance, justifiable. Again, the detail of this intervention would be sensitively handled.” (page 17)

“Reinstatement of the retaining wall and belvedere are considered to be conversation benefits. However, the new build elements will mostly obscure such features when viewed from the south.” (page 17) (emphasis added)

### **Local Plan Policy**

“The aim of the national policy is reinforced by the Edinburgh City Local Plan policy ENV2 and policy ENV2 of the Second Proposed Local Development Plan which state:

Proposals for the total or substantial demolition of a listed building will only be supported in exceptional circumstances, taking into account:

- a) the condition of the building and cost of repairing and maintaining it in relation to its importance and to the value to be derived from its continued use.
- b) the adequacy efforts to retain the building in, or adapt it to, a use that will safeguard its future, including its marketing at a price reflecting its location and condition to potential restoring purchasers for a reasonable period.
- c) the merits of alternative proposals for the site and whether the public benefits to be derived from allowing demolition outweigh the loss.

Criteria a), b) and c) need to be considered together.

The value of returning the main Hamilton building to a long term future use cannot be underestimated. The viability of the hotel proposals is dependent on the demolition of the classroom/gym block and the gatehouse lodge and it is accepted that the economic benefits to the city, region and nation are significant enough to justify this demolition whilst returning the Hamilton building to a sustainable use. As such, part a) of the local plan policy has been addressed. (emphasis added)

The adequacy of efforts to retain the building in, or adapt it to a use that will safeguard its future are similarly assessed above. The building has not been marketed. It therefore does not meet the requirements of criterion b) of the policy. In this instance though, it has been accepted that a conservation based approach to the Hamilton building could justify the demolition of the gym/classroom block.

As assessed below, the proposals do not put forward a conservation based approach to the Hamilton building with the extensions and significant interventions detracting from the architectural composition, integrity and character of the listed building. While public benefits of the proposed scheme exist they do not justify the interventions and extensions and fail to comply with local plan policy.” (page 24)

- 5.9 For reasons set out elsewhere it is simply wrong to suggest the building has not been marketed. (see cross of Mr Leslie)

“There is a slight adverse impact on the setting of the Category ‘A’ listed building on Regent’s Terrace, when viewed next to the significant scale of the proposed eastern extension.” (page 25) (emphasis added)

“The Burns Monument was also designed as part of the collection of classical monuments on the hill. Whilst the proposed east wing will affect the setting of the monument, the impact will not be significant.” (page 25, emphasis added)

“The eastern wing would be seen from the Gardens at Holyrood Palace, particularly during the winter months, altering the view from the palace. However, this impact is not significant.” (page 26, emphasis added)

“Firstly, the stepping back of the extensions - to create the terraced effects - allows a little more of the landscape to be seen either side the Hamilton Building than would otherwise be seen if the extensions took a more traditional form whereby floors are positioned directly on top of one another.

Secondly, mitigation is achieved through the design of the extensions’ facades. The use of the faceted rectangular shaped panels of pre-patinated copper, has a sculptural effect that is reminiscent of the nearby Salisbury Crags. The extensions are clearly modern in appearance, creating a striking contrast to the Hamilton Building and the nearby listed monuments and buildings. Like the Hamilton Building, the natural light will highlight these in different ways throughout the day and seasons. This means that sometimes, the extensions will be more recessive in their appearance, and sometimes they will be more prominent. It will always be clear however, that these are buildings and not part of the natural landscape.” (page 34)

“A sample panel has been constructed on site. This shows the high quality of the proposal in respect of the proposed external material and its detailing. If Committee is minded to grant the application, a condition is recommended to secure this material.” (page 34)

“This design approach is supported by A+DS.” (page 34)

- 5.10 Page 37 confirms that the “daylight, sunlight and privacy issues are acceptable”. In these circumstances it is very difficult indeed to understand why a smaller building in Scheme 2 could possibly have any such issues. I refer to the Appellant’s written submission on daylight/sunlight matters.
- 5.11 Notwithstanding all of the foregoing, and the considerable economic advantages which are considered later, the report goes on to recommend refusal. However the report does seem to read as if it was intended to recommend approval - but was at a very late stage altered.

However all of the foregoing content remains the Professional opinion of Ms Parkes and her department and very strongly supports approval.

**Ms Julie Waldron**

5.12 I submit that the evidence of Ms Waldron should be treated with just a little bit of caution for the following reasons

- it was clear from cross that Ms Waldron had no involvement in the design workshop.
- Ms Waldron stated at para. 2.20 of her Inquiry Report “This is not a historic landscape of change”. However it became clear in cross that Mr Waldron was fully aware of the consented proposals for the top of Calton Hill. Indeed it appeared from cross that Ms Waldron had recommended against consent due to the significant visual impacts. A site inspection will no doubt have confirmed that there has been significant change on Calton Hill - this is notwithstanding the four buildings constructed close to the RHS. Why then Ms Waldron claimed no change is difficult to understand. It may be this was due to lack of experience.
- It became clear during cross that Ms Waldron had limited experience on issues such as undertaking a L&V assessment, townscape assessment or drafting guidance for SNH. Ms Waldron was of course keen to stress involvement at Towerbridge and some drainage advice. However the differences of experience with the Appellants witnesses was very considerable and very apparent.
- In addition Ms Waldron referred to the RHS on more than one occasion as “a monument” (paras. 10.15, 18.22, 24.4). The RHS is not a “monument” as all professionals should know. As a result it appears that Ms Waldron is not only in error but as a result will have applied the wrong tests, and therefore her conclusions must be at best questionable.
- However what is most extraordinary and possibly unreasonable was that Ms Waldron in her assessment failed to mention at all CD 383 which confirms that the officials of CEC, which obviously includes Ms Waldron, were of the professional opinion that a building to the east broadly the same as that proposed by the Appellants (Mr Leslie in cross) was and is acceptable. This is an extraordinary omission by Ms Waldron and one that calls into question whether any weight at all can be placed on the evidence of Ms Waldron. In addition Ms Waldron has failed to properly distinguish between the two schemes which are materially different.
- At 5.2 Ms Waldron stated “I cannot accept that these buildings will disappear ...” This is a very curious statement. No one has ever suggested the building will disappear. Indeed how could these buildings or any buildings disappear?
- In cross Ms Waldron referred to wind blow being an issue in relation to the trees on Regent Road. Wind blow relates to a situation where the

leading edge of a forest is felled which then leaves weaker trees within the forest exposed to the elements. It has no application in current circumstances and possibly again demonstrates the lack of experience of Ms Waldron.

- Ms Waldron had no regard to the fact that the Appellants won the design competition on the basis of a proposal which quite clearly showed significant built development on both sides of the RHS. This competition was judged by inter alia CEC officials. CEC then agreed a contract with the Appellants. I refer to the fair and reasoned evidence by Mr Leslie in this regard.
- Ms Waldron has ignored the professional opinion of CEC officials in relation to the suitability of the east wing which “broadly accords” with the pre-application advice CD 383. This appears to put her at odds with the professional opinion of all other CEC officials.
- Ms Waldron stated this was an unchanged landscaped - this is simply wrong.
- The language used in the overall summary (Inquiry Report page 52): “dominate”, “overwhelm”, “overpowering”, are quite clearly overstating and exaggerating the situation and should be seen as such.

5.13 In conclusion I submit that very limited weight indeed can or should attach to the evidence of Ms Waldron.

**Mr McMeeken**

5.14 Mr McMeeken the quick witted Dundonian who had cells in his school is in fact significantly in agreement with the Appellant’s case. I refer to -

- para. 4.B the most significant elevation is the rear/south
- Mr McMeeken properly acknowledges the lack of merit of the lunch room and class room and accepts properly that it would be an advantage to demolish them (para. 6.170 and 6.47)
- Mr McMeeken also accepts the gym is not of the same quality and that the loss could be justified in terms of the HESPS tests. The same must apply to the Gate Lodge not least because of the terms of CD383.
- In considering whether or not the economic justification has been made Mr McMeeken wisely (and correctly) relied on the evidence from his own economic department. I have dealt with this evidence elsewhere and so do not repeat it here - other than to stress it quite clearly outweighs any adverse impact (if there is any).
- In relation to design and materials Mr McMeeken is again open and straightforward - he accepts the quality of the materials and design (para. 9.76)

- In addition Mr McMeeken accepts and seems even to support detailed aspects of the design feature in relation to the RHS building - I refer to paras. 6.4, 6.5, 6.6, 6.7, 6.8 and 6.9 (page 12).
- 5.15 Of even greater importance was the proper and fair acceptance in written evidence at para. 7.3 that one cannot “ensure” that the RHSPT scheme will be delivered. This then is an end of consideration of the RHSPT scheme. Even if it must be considered it is not possible, for all the reasons set out elsewhere, to hold that it will have “less impact”.
- 5.16 In summary then Mr McMeeken in so far as his own area of expertise is concerned has been both fair and professional. This approach may be compared and contrasted with the approach of HES.
- 5.17 I suggest that on a fair reading of his report taken together with the answers in cross it would be entirely reasonable to conclude that Mr McMeeken is somewhat sympathetic to the proposals. However I will let others decide that.

## **6. HISTORIC ENVIRONMENT SCOTLAND [HES]**

### **Introduction**

- 6.1 I propose to consider firstly the Policy Statement which sets out how HES fulfils its regulatory and advisory roles and how HES expects others to interpret and implement the SPP (see HESPS para. 1). Thereafter I will consider whether and to what extent HES, and in particular Mr Robb, have had proper regard to HESPS.
- 6.2 It may be that the consideration will confirm that HES have simply failed in this particular case to pay proper regard to their own Policy Statement.

### **Policy Statement [HESPS]**

- 6.3 The HESPS must be considered as a whole, however I have set out some of the relevant Policy in the document:
- 1.3 The historic environment has been adapted over time to meet changing needs. Our view of what is important develops and changes. New buildings, sites and environments are created, and over time, become historic. The challenge for sustainable management of the historic environment and how it contributes to the vitality of modern life, is to identify its key characteristics and to establish the boundaries within which change can continue so that it enhances rather than diminishes historic character.
  - 1.4 The remains of the past can act as a powerful catalyst and a stimulus to high quality new design and development, leading to successful regeneration and community-building. We believe that the historic environment should be valued as an asset, rather than thought of as a barrier to development. It reinforces the identify of communities, and can add value, provided that value is recognised at the outset and it becomes an integral part of any development or regeneration project.
  - 1.5 The protection of the historic environment is not about preventing change. Historic Environment Scotland believes that change in this dynamic

environment should be managed intelligently and with understanding, to achieve the best outcome for the historic environment and for the people of Scotland. Such decisions often have to recognise economic realities. (emphasis added)

6.4 The key principles are set out at para. 1.9 and 1.10.

1.9. The principles that underpin what Historic Environment Scotland does are that

- a. actions taken in respect of Scotland's historic environment should secure its conservation and management for the benefit and enjoyment of present and future generations;
- b. there should be a presumption in favour of preservation of individual historic assets and also the pattern of the wider historic environment; no historic asset should be lost or radically changed without adequate consideration of its significance and of all the means available to manage and conserve it;
- c. Scotland's historic environment should be managed in a sustainable way, recognising that it is a social, cultural, economic and environmental resource of great value;
- d. all of the people of Scotland should be able to enjoy, appreciate, learn from and understand Scotland's historic environment, and be assisted in that through access, research, knowledge, information and education and proactive conservation investment, without compromise to cultural significance.

1.10. The conservation of any part of Scotland's historic environment should:

- a. be based upon sound knowledge and understanding of the particular site, building, monument or landscape, and of its wider context;
- b. be founded on full awareness and consideration of its cultural significance and all phases of its development;
- c. be carried out in accordance with a conservation plan, which brings together all of the information and research necessary to guide the proposed action;
- d. ensure that what is to be conserved is properly recorded before and, if necessary, during and after work;
- e. make provision for recording where continued preservation is no longer possible or where loss is taking place through change or ongoing decay, and ensure that all records are retained in readily accessible archives;
- f. incur only the minimum degree of intervention considered appropriate by the relevant authority for the type of site, building, monument or landscape;

- g. use appropriate technical knowledge, materials, skills and methods of working;
- h. have regard to retaining, or where appropriate enhancing, the setting of the site, monument, building or landscape;
- i. ensure that, where change is proposed, it is appropriate, carefully considered, authoritatively based, properly planned and executed, and (if appropriate) reversible;
- j. include effective arrangements for monitoring the condition and safety of the historic asset and for delivery of routine maintenance and good housekeeping;
- k. take account of the rich biodiversity of many historic sites, buildings and landscapes.

6.5 The HESPS in addition provides full details in relation to the determination of Applications.

3.45 “Where a proposal protects or enhances the special interest of the building, for example, through the like-for-like replacement of a window or door which is beyond repair or the reinstatement of important detailing, consent should normally be granted.

3.46 Where a proposal involves alteration or adaptation which will sustain or enhance the beneficial use of the building and does not adversely affect the special interest of the building, consent should normally be granted.”  
I will submit elsewhere that this applies to the RHS building. This would mean that para 3.47 would not require to be considered.

3.47 “Where a proposal involves alteration or adaptation which will have an adverse or significantly adverse impact on the special interest of the building, planning authorities, in reaching decisions should consider carefully:

- a. the relative importance of the special interest of the building; and
- b. the scale of the impact of the proposals on that special interest; and
- c. whether there are other options which would ensure a continuing beneficial use for the building with less impact on its special interest; (emphasis added) and
- d. whether there are significant benefits for economic growth or the wider community which justify a departure from the presumption set out in paragraph 3.38 above.

6.6 I stress that this involves a consideration of the above. It does not mean all the points must be met.

3.48 In the case of applications for the demolition of listed buildings Scottish Planning Policy states (para. 14) that “Listed Buildings should be protected from demolition or other work that would adversely affect it or

its setting”. Historic Environment Scotland advises that no listed building should be demolished unless it can be clearly demonstrated that every effort has been made to retain it. Planning authorities should therefore only approve such applications where they are satisfied that:

- a. the building is not of special interest; or
- b. the building is incapable of repair; or
- c. the demolition of the building is essential to delivering significant benefits to economic growth or the wider community; or
- d. 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.”

6.7 Only one of the foregoing “tests” need be satisfied.

**Steven Robb**

6.8 In normal circumstances one would expect that considerable weight should attach to evidence from HES. However in this particular case I submit little or no weight can or should attach to HES’ evidence for several reasons:

- Mr Robb in his report confirmed that he was the case officer for the two planning applications as well as the two LB applications (para. 3). Mr Robb also confirmed that “I would strongly recommend that the appeals against both applications are refused allowing for a less harmful option to progress” (para. 233).
- In so stating Mr Robb has confirmed an approach and understanding that is fundamentally flawed.
- In cross Mr Robb appeared not to know or understand the basic legal test in S25 of the Act. In any event Mr Robb made no proper reference in his evidence to the Development Plan or any relevant policies. He has carried out no proper evaluation of the proposals against the Development plan.
- In these circumstances it is simply wrong to ask for refusal of planning permission when no appropriate analysis has been carried out against the Development Plan. The approach is further fundamentally flawed by the request to allow other options “to progress”. Each application must as a matter of law be determined on its own merits. The matter was made worse if that is possible because Mr Robb appeared to ask the Inquiry to place reliance on some unspecified chat he had had in a pub, or similar, indicating that some unnamed person may be interested. This is an entirely misguided and inappropriate approach. This approach considered as a whole simply undermines the entire evidence of Mr Robb and therefore of HES.
- It is clear that the HESPS document referred to earlier requires consideration of economic issues. Indeed it requires recognition of



“economic realities” (para 1.5). The tests clearly indicates that economic benefits are relevant and may (after proper consideration) overcome any significant adverse impacts.

- 6.9 In order to make such a judgement it is obvious that one must consider, evaluate, and weigh in the balance the economic advantages. No one doubts that there will be economic advantages from the current appeal proposals. However in the Consultation Response by HES CD 356 there is no proper regard to the financial advantages at all. In his report HES2 Mr Robb at last seems to realise that economic issues are in issue (para. 149 onwards). However he states in two lines only that the economic benefits “would not appear to provide substantial regional benefits” (para 151). Notwithstanding that this is at odds with the evidence of CEC, Mr Robb fails to justify such a conclusion and the word “regional” does not appear in the HESPS tests.
- 6.10 Worse still Mr Robb turns logic on its head in the best Alice in Wonderland fashion.
- 6.11 Mr Robb states at para 154 that “HES does not support planning permission being granted”, and as he states “If permission for the scheme is not given it cannot proceed and therefore has no opportunity to provide the argued benefits”. This really misses the point of the HESPS “tests”. The question is whether the economic benefits outweigh any significant adverse impact to enable permission to be granted. I pause to note that the words “regional” or “national” do not appear in the HESPS. The question is a simple one whether the economic benefits outweigh any significant adverse impacts and Mr Robb and HES had simply failed to address this issue.
- 6.12 The position of HES is further undermined as HES had also failed to have any proper regard to the terms of 3.47(c). This requires a consideration of whether there are options that “ensure” a continued beneficial use. This means make absolutely certain. “Are” is present tense. Accordingly it cannot refer to possibilities in the future. This does not mean a mere possibility nor even probability. It most certainly does not involve placing reliance on discussions by persons not identified in circumstances not identified as Mr Robb tried to do. Equally it cannot mean an approach such as “we may consider other schemes would be possible” (Mr Robb, para. 204). This is not consistent with the clear wording.
- 6.13 In addition for all the reasons stated elsewhere the reliance by Mr Robb on the RHSPT scheme is also totally misplaced and simply wrong.
- 6.14 In short on this point alone the approach to HESPS is wrong and this yet again fundamentally undermines the entire evidence of HES.
- 6.15 In addition I submit that not until cross did Mr Robb fairly address the merits (or otherwise) of the RHSPT scheme. I invite a detailed consideration of his concerns as confirmed in cross however I highlight the following which Mr Robb accepted - possibly reluctantly:
- the damage to the basement level by rock extraction
  - the new south entrance which is highly undesirable
  - the risks inherent in the works to achieve this entrance
  - the impacts arising from building to the north of the RHS - both physical and visual - all of which are undesirable or unacceptable

- the fact that the scheme causes or continues subdivision of rooms in the RHS

6.16 In summary even on the basis of Mr Robb’s evidence in cross it simply cannot be said with certainty that there will be “less impact” on the special interest of the RHS from the RHSPT scheme.

- Mr Robb’s report at 198-215 bear little relation to his eventual answers in cross
- Mr Robb appeared reluctant to accept that he/HES had seen and approved CD383. This is a relevant material consideration which should have been made clear in evidence, as it gives significant support *inter alia* to the east wing
- Mr Robb’s suggestion that the fact that CEC required a minimum number of bedrooms only became available recently is wrong. The fact had been in the public domain for some time (see evidence of Mr Leslie).

6.17 It is in any event difficult to understand the concern about this issue.

#### **Ms Middleton**

6.18 There was and is considerable agreement between Ms Middleton and the Appellants (paras. 70, 71, 72, 74, 75, 76, 78, 79, 97, 98), and some of this is at odds with the evidence of Ms Waldron. However as Ms Middleton has failed to have proper regard to the geographical area of designed landscape that will be affected, or the extent of intervisibility, her evidence must be treated with caution.

6.19 Ms Middleton has simply failed to have any proper regard to the HESPS “tests” and has wrongfully assumed that the RHSPT scheme can proceed.

6.20 Finally Ms Middleton does not appear from HES 6 to be a qualified landscape architect. If this is correct it may explain her failure to follow the advice in the GLVIA about taking into account the extent of any impacts

#### **Ms Denyer**

6.21 Ms Denyer is the Secretary at ICOMOS. James Simpson is the Scottish representative of ICOMOS and the Mr Simpson of Simpson & Brown Architects who represent the RHSPT. The evidence of Ms Denyer is, I regret to submit, flawed for the following reasons:

- there is no regard to the terms of the Development Plan
- there is likewise no regard to the terms of HESPS
- there is no regard to the obvious advantages of the proposals.
- there is no consideration to the highly undesirable feature of one of Scotland’s most important buildings continuing to be vacant and clearly deteriorating
- there is no consideration to the fact this is a building in the WHS which is vacant and deteriorating. This is highly undesirable in a WHS

- there is no consideration given to the fact that the RHS site (all 5 buildings) are on the Buildings at Risk Register. This is also highly undesirable
  - there is no consideration to the economic advantages and tourism advantages
- 6.22 In conclusion Ms Denyer has failed to consider all relevant material considerations - many of which are highly relevant to the WHS and OUV.
- 6.23 Accordingly the whole approach of Ms Denyer, as with HES, is flawed and her evidence fails to fairly evaluate the proposals at appeal.
- 6.24 Finally Ms Denyer has failed even to consider the possibility that the development may prove attractive and in itself add to the OUV of the WHS. I suggest that if consented that is exactly what will happen.
- 6.25 Finally there is no factual basis to suggest this development may cause Edinburgh to lose WHS status. This has only previously happened in
- Oman where the Government preferred to drill for oil in the WHS
  - Germany where a major road and bridge were built across the valley which enjoyed WHS status.
- 6.26 There is no comparison with current circumstances.
- 6.27 References to Liverpool are equally misplaced. Liverpool is developing many many acres of high rise - yet still has WHS status.
- 6.28 Accordingly any suggestion that Edinburgh will lose it WHS status due to one vacant building (and an important one at that), being restored and reused is simply scaremongering and has no basis in fact.

### **Conclusion on HES**

- 6.29 I submit with regret that HES has failed to have proper regard to HESPS. HES has failed to have proper regard to the Development Plan. HES is a consultee and no doubt an important one, but a consultee nevertheless. It was for the CEC and now Ministers to determine whether permission should be forthcoming. Is it possible HES in its desire to stop the proposal has forgotten its role as consultee?

## **7. THE ARCHITECTURAL HERITAGE SOCIETY FOR SCOTLAND (AHSS)**

- 7.1 The evidence of AHSS can be considered very briefly.
- 7.2 Mr Lowrey had clearly undertaken a great deal of work and clearly much enjoyed talking about it. However when all was said and done little or nothing he said was controversial and most was of little relevance. Accordingly I asked no questions, and make no comment now.
- 7.3 Mr Drummond gave evidence that was both relevant and measured.
- He accepted the internal alterations to be broadly acceptable (4.16)
  - access is appropriate (4.16)
  - success will depend on quality which can be controlled by conditions (4.16)

- public realm work is a benefit (4.17)
- more generally AHSS supports bringing building such as this back into economic and social use (4.7)
- Mr Drummond accepted an amended methodology for the HIA (5.18)
- Although Mr Drummond noted certain adverse impacts Mr Drummond nowhere suggested consent should be refused. Doubtless that is because Mr Drummond realises (as a very experienced conservation Architect) that economic and financial issues must be weighed in the balance. AHSS have neither the expertise, nor I imagine the inclination, to evaluate economic issues. AHSS seems to accept such evaluation should properly be left to the decision maker - based on proper evidence - as do the Appellants!

7.4 This reasoned, professional approach by Mr Drummond and also by AHSS is in stark contrast to the approach by Mr Robb and HES. The difference is further emphasised as AHSS had as a witness a very experienced Conservation Architect. HES had no Architects as a witness.

7.5 I will make only a few comments on the AHSS closing submission:-

- Neither Mr Lowrey nor Mr Drummond in evidence suggested refusal or either PP or LBC. There is therefore no evidence from AHSS which entitles such a submission in closing.
- The AHSS did not attend or participate in Session 2 - the economic session. It is difficult therefore to understand on what basis any comment on economic issues can properly be made in the Closing Submission.
- The comments about Mr Wright at pages 2, 3, 4 are at best unfortunate. Mr Wright is a highly experienced and respected witness whose evidence lasted almost a full week with most of it cross examination. To suggest now that he should not be an “expert witness” is unfortunate, unreasonable, and simply wrong. This is particularly so as we all know evidence was indeed “fabricated”, albeit by Mr Wilkinson, and shown to the public. This was all clarified by Mr Drummond in cross who explained fairly and reasonably that when the AHSS became aware of the fabrication, AHSS acted appropriately. This included removing it from the AHSS website where the montage had feature large - well actually too large! Until that explanation it had been though that AHSS were also involved to some extent as AHSS had hosted or even chaired the relevant meeting. This was all clarified during the Inquiry. I for one thought that this was the end of the issue so far as AHSS were concerned. Indeed it should have been the end of this issue. It is most regrettable this issue has been raised again in the submission. Whether this is simply an attempt to discredit an experienced credible and reliable witness others may judge. I simply say that given all that Mr Wright endured without complaint at the Inquiry this is a very very unfortunate submission. I do wonder whether AHSS may care to reconsider this unnecessary and unfounded attack on Mr Wright. It would be to the credit of AHSS if that happened.

## 8. THE COALITION

8.1 The coalition led four witnesses in session 1. However very little of that evidence was in my submission relevant to the determination of the appeals.

### **Dr Carter McKee**

8.2 Dr Carter McKee confirmed that Hamilton had intended the Burns monument to be sited on top of Millers Knowe. This would obviously have given the RHS a different setting, and views from the west would have been impacted, but not the all important view from Waterloo Place which was only affected, possibly blocked, by the later addition of the Gate Lodge.

### **Mr Price**

8.3 Mr Price, representing the New Town and Broughton Community Council, confirmed that the existence of the RHSPT scheme “can only have served to motivate people to object to scheme 2” (para. 4.2).

8.4 This statement is important, and is clearly accurate. However what it confirms that objections to scheme 2 were not soundly based. Scheme 2 as with any application must be judged on its own merits. The existence of another scheme is irrelevant to that consideration. In addition it is factually flawed because the evidence is that the RHSPT scheme cannot possibly proceed meantime. In addition there is no contract with the music school. All of this is dealt with in detail elsewhere.

8.5 The conclusion of all of this helpful evidence from Mr Price is that objections made to scheme 2 were clearly ill founded and so should attract very limited weight.

8.6 Mr Price also expressed considerable concern about the servicing arrangements. However CEC transportation do not object. This then seems to put Mr Price at odds with CEC. In any event the RHSPT scheme seems to have similar servicing arrangements.

### **Mr Levinthal**

8.7 Mr Levinthal appeared on behalf of the Cockburn. Mr Levinthal confirmed that the Cockburn has a very long track record of objecting to hotels and similar proposals in Edinburgh. The Cockburn also has a record of being unsuccessful in such objections. Mr Levinthal confirmed the following examples:

- The Balmoral - which it now appears the Cockburn regret objecting to
- 6-8 Market Street
- St James Centre - the Cockburns objected to the hotel element
- Registers Scheme
- India Building
- Kings Stable Road

8.8 It is of course very easy to make objections, and all of the above objections related to height, scale and massing. It is much more difficult to design and formulate the proposal. The significant flaw in the Cockburn’s position was and is a total failure to have proper regard to the very significant advantages of the proposals. The economic benefits are ignored and no proper weight is placed on the advantages of restoring, preserving and enhancing, and re-

using the original RHS building. In addition the evidence almost entirely ignores the quality of the materials proposed and the design. The evidence simply is not balanced. The evidence of the Cockburn should attract little weight.

### **Mr Wilkinson**

- 8.9 This then leaves the last of the coalition witnesses, Mr Wilkinson of Edinburgh World Heritage. I do not intend to repeat what is said in the motion for expenses about his evidence. I do not intend to prolong the embarrassment. Quite simply Mr Wilkinson should never have done what he did. He fabricated evidence when he had accurate evidence available to him. Worse still Mr Wilkinson showed this fabricated evidence to many members of the public at a meeting which was intended to increase opposition to the proposals. The “honest error” can hardly be dismissed as the slip of a mouse - it must have taken considerable time to fabricate this evidence. This is not a question of going for the man not the ball. Anyone who imagines that very seriously misunderstands the issues, and the requirements of honesty and integrity from expert witnesses. The highest standards of probity are required of an expert witness and of the WHT itself. This fabricated evidence may well have influenced members of the public and so undermined their objections.
- 8.10 The attempt by Mr Wilkinson to play down the work required to the RHS building on the basis he had been a carpenter, which he did before the planning committee, is a further example of misjudgement and in truth unreasonable behaviour. I have said enough, possibly more than enough about an issue which should never have arisen. The evidence of the EWH Trust is discredited and cannot attract any weight at all for all the reason set out here and in the motion for expenses. Finally the suggestion that consent “would constitute a failure of the UK system of protection ...” (page 8) is absurd, unreasonable, and has no basis in fact. Mr Wilkinson, who has a degree in Russian, has failed to consider the obvious advantages of re-use of the RHS building, and the fact that some may like the design approach to the new build, and accordingly the WHS may benefit significantly.
- 8.11 In conclusion on the evidence this all reflects very badly on the Coalition who should never have led such evidence in all the circumstances of which the Coalition were, it appears, aware before Mr Wilkinson gave his evidence.
- 8.12 In relation to the Closing Submission I will largely leave it to others to consider the weight to be attached to it but I make a few comments:-
- The suggestion that Professor Tavernor “repeatedly” attempted “to mislead the Reporters” is simply without foundation. The same can be said of the suggestion that his evidence should be “ignored”. There is no proper basis for this (para. 6.5).
  - The criticism about “absence of such witnesses” is curious (para. 1.10). Some thought we had too many witnesses.
  - The assertion (1.10) that witnesses could not speak about operational matters and “no weight” should be given is equally curious. This was said to be because the witnesses do not speak for the operator or controller of the site. This is simply wrong. All witnesses appeared on behalf of the Developer who controls the site.

- This seems to rely on the submissions about corporate structure. This may be of interest to some but is of no relevance. The appeals are about land use planning. It may have had some relevance in the event of a s75 - but none is required.
- Bank Finances - of course none has yet been drawn down. Who would draw down finance before it was needed? It is dependent on planning permission. Evidence was led about the availability. It may be the criticism is that we did not lead Mr “Bank” or Mr “Oaktree Capital” - as that seems to be the line of criticism. This however would be absurd.

8.13 I simply invite full scrutiny of the Coalition’s submission and a fair judgement be made about the tone, content and relevance.

## 9. THE ROYAL HIGH SCHOOL PRESERVATION TRUST [RHSPT]

### Background

9.1 I submit that the RHSPT is only relevant to this appeal in relation to Issue 4 which reflects HES Policy Statement at para. 3.47(c). I will consider the detail of the RHSPT proposal against the precise wording of para. 3.47(c). However it is instructive to consider the evidence of Mr Liddell, the Solicitor who did not like to talk about himself, but then proceeded to do exactly that, at some length. He confirmed that the RHSPT was set up with the sole purpose of trying to stop or hinder the Appellant’s hotel proposals. The Appellant’s proposal of course involved the preservation and conservation of the Hamilton masterpiece.

9.2 In these circumstances some may wonder whether the “preservation” Trust was a misnomer. Possibly it may have been more accurate to describe it as an “anti-preservation” Trust at its inception. It is perfectly obvious that the initial intention was to thwart the Appellant’s proposals, nothing more nothing less.

9.3 Three questions immediately arise:

- (1) Why on earth dress up simple opposition as a preservation Trust?
- (2) Why was it necessary to go to such lengths, never mind expense, to advance an objection to the Appellant’s proposals?
- (3) Why on earth was Dr Grigor not content to leave the matters in the hands of the relevant experts namely CEC, HES and others. This is the way the democratic process works in this country. It really is difficult to understand why Dr Grigor and others took such unusual, possibly unique, steps to try to oppose the hotel proposals. It is also difficult to understand why the Trust have failed at any time to acknowledge the extent of the clear advantages of the Appellant’s proposals - and there are many.

9.4 It is also informative to understand that at the time of inception the Trustees took no professional advice as to the appropriateness or otherwise of the Appellant’s proposals. Mr Liddell was of course quick to point out that Dr Grigor has some particular interest in Architecture. That may be so, but it is a long way from a *bona fide* professional qualification.

### Mr Liddell

9.5 Mr Liddell was very keen to list the standing and credentials of the Trustees of the Trust. One may be forgiven for imagining that a property developer and Banker would understand the economic advantages of this proposal. However there was no mention of these advantages at all. Instead there was criticism of every possible aspect of the proposal and very very lengthy cross-examination of the finest of fine details. Whether any of these tactics will attract any weight will be for others to judge. Whether the conduct of the RHSPT smacks of a high handed, money no object campaign to stop the hotel I will also leave to others to judge. Certainly the content, tone and manner of Mr Liddell's evidence would seem to suggest such an approach.

9.6 I submit that the tactics should be seen for what they are - a cynical and very expensive attempt to influence the planning process by those that either do not like a hotel, or the design, or possibly both, and are not content to leave the decision to CEC, Reporters or Ministers.

### **James Welch**

9.7 The RHSPT led Mr Welch as a witness. This is a measure of the determination of the RHSPT to defeat the appeal proposals. At least no doubt that was the intention. In truth at the end of the day there was very little dispute between Mr Van Grieken and Mr Welch, notwithstanding the very very extensive cross examination of Mr Van Grieken by the RHSPT.

9.8 Two issues appear to define the difference of professional opinion:

- (i) whether the extent of the receptor that is affected is relevant or not, Mr Welch confirms at para. 92 of his evidence that "I do not support such an approach".

Mr Van Grieken of course referred to and relied upon the geographical extent affected, in coming to his judgement.

In cross Mr Welch was forced to accept that the GLVIA guidelines do indeed advise that the geographical area affected should and must be taken into account in making judgements. I refer to the pages and paragraphs put to Mr Welch. These were paras. 3.26, 5.50, 6.40 of the GVLIA which all makes clear that the geographical area is a relevant material consideration - exactly as Mr Grieken said.

Accordingly I simply submit that the approach adopted by Mr Van Grieken was consistent with the GLVIA and Mr Welch was wrong in not following such guidance.

- (ii) The second area of dispute related to the finding of significance of effect from viewpoints. The differences are actually not significant in number.

- (iii) In cross I put 2 of the viewpoints in dispute to Mr Welch - one from the Castle Rampants - the other from Arthurs Seat. In both cases the opinions about sensitivity and magnitude of change are the same. The differences relate only to the judgement about significance of effect. I simply submit that given the distances involved, the width of the view and the extent that it is even possible to see the new proposals (given screening) then the only conclusion is that Mr Welch has overstated the position. Mr Welch has overstated the position in the same way that he stated at para 2h that this is "one of the most significant and memorable composition in a city anywhere" (emphasis added).



That really is a bold statement and could only possibly be justified if Mr Welch had considered every other composition worldwide. In fairness to Mr Welch this does properly reflect the approach of the RHSPT - namely to try to defeat the appeal proposals at any cost ... literally!

- 9.9 Finally, I leave this issue with two questions. One, is it really so unusual or significant if one sees buildings in a city centre location - especially if the architectural quality and materials are of the highest possible standard? Two, it is possible that given the quality of the design this might actually be an advantage when judged against the current vacant and deteriorating buildings?

## 10. CONSIDERATION OF THE HESPS “TESTS”

### HESPS para. 3.47(c) - “ensure”

- 10.1 I have earlier set out the terms of the HESPS “test” and so do not repeat them here.

- 10.2 Issue 4 for this Inquiry involves consideration of para. 3.47(c) of the HESPS guidance. This requires a detailed consideration of two issues -

(1) Whether there are any other options which “would ensure” ... (emphasis added) [this means be certain] the continuing beneficial use for the building I submit that there are no other options for the site which would “ensure” the continuing use. Indeed I think it accurate to state that there was no evidence at the Inquiry to the contrary. The wording is “are any other options”. This is present tense and so must apply at the time of the decision. It refers to “other options” - namely other than the one under consideration. The facts are clear and beyond reasonable arguments.

- (i) The RHSPT has no legal control over the site at the present time.
- (ii) It is legally impossible for the RHSPT to gain any interest in the site for several years at least (see the Agreed Statement). This may be further extended by agreement. There is no possibility of any interest at this time.
- (iii) Indeed even if the Appellant’s interests ended for any reason at any unknown date in the future then CEC would be obliged to obtain “best value”. The last occasion CEC were faced with this issue CEC advertised Europe wide and attracted 53 bids. I submit that it is extremely likely, if not certain, given the nature of the building and issues involved that a similar procedure would be both prudent and followed again. There simply can be no certainty that RHSPT would succeed.
- (iv) It is even more fanciful to suggest as Mr Robb tried to do that others may come forward. His evidence on this issue seemed to amount to little more than the equivalent to a chat with a man in a pub. The attempts by Mr Robb to introduce this evidence were simply unreasonable and unworthy of HES on an important matters like this. These suggestions should be dismissed.
- (v) It is also important to stress that not only have RHSPT got no legal interest in the site but they have not troubled to secure a legally binding agreement with the Music School. This is astonishing as there is no legal impediment

to such an agreement. Of course Mr Liddell was honest enough to confirm that the RHSPT have a plan B and are open to considering other uses for the building or site.

Accordingly those who have supported the Music School in favour of the hotel must be rather bewildered if not annoyed by that admission. In addition Mr Liddell confirmed that the Music School had been searching for new premises in any event. Perhaps the School will secure something suitable in early course - which is not the RHS. There was of course no direct evidence from the Music School at all about the school's intentions.

In short there can be no certainty that the RHSPT will ever secure a legal interest in the site. There is even less certainty that the Music School will go there. It is worthy of consideration as to what Mr Liddell meant by Plan B. The plans have been drawn up to accommodate a music school with sound proof rooms, small practice rooms and the like. One can only speculate as to what other use the plans, as consented, can be put to. That speculation may last some time without providing a suitable answer.

- (vi) It is also important to understand that the Dunard Fund/Dr Grigor were involved at the time of the Hill/Adamson proposals to use the Hamilton building as a photographic museum. These proposals were live and enjoyed great support for a period of about nine years. The proposals had to be abandoned due to lack of funding (see CD 404). I submit that if the Dunard Fund and or Dr Grigor wished to "preserve" the Hamilton building then there was an opportunity to do so over a nine year period. It seems from an examination of the relevant report that money was not forthcoming and so that proposal foundered. I leave this issue with a simple question - is there a risk of history repeating itself? That would be more than unfortunate.
- (vii) It may of course be thought relevant that Dr Grigor is leaving the UK as a result of some kind of disagreement with HM Government Inland Revenue Dept. Mr Liddell sprung to the defence by claiming that Dr Grigor is being "forced" out of the country due to taxation issues for US nationals or domiciles - that claim is simply untrue. No one is forcing such a move. The truth appears to be that Dr Grigor is choosing to leave to avoid certain taxation consequences of remaining. Whether Dr Grigor's undoubted largesse in the past will go with her to Dublin's Fair City - only time will tell. We do know there are no legally binding financial agreements in relation to the site or the music school. Any vague expressions in a letter are I submit nor legally binding. There can be no certainty in this regard either.
- (viii) It was also extremely illuminating when Mr Liddell according to his verbal evidence, which he assured us could be relied on, confirmed that the Trust has in fact committed greater sums of money to the IMPACT concert hall project and the RHSPT/Music School than is currently in the bank account. This of course raises three issues -

- Is it legally correct for a Charitable Trust to “over commit” itself? The other possibility is that the Dunard Fund have not in fact made such commitments.
- The Trust is dependent on cash from an electrical company. What happens if the payments cease for whatever reason?
- The “over commitment” simply raises greater uncertainty as to whether the Music School can or will ever be delivered.

- (ix) I pause to note also that certain aspects of the RHSPT application were in fact refused and have not yet been addressed. In addition the Listed Building Consent expires after three years - much of which has already passed. This is an important consideration. The consent will expire a long time before the Appellant’s missives with CEC. This adds further uncertainty.
- (x) Agreement will be required with Network Rail - little or nothing has been done in this regard - unlike by the Appellants.
- (xi) If the IMPACT concert hall proceeds, is there a genuine need for another concert hall, particularly one that needs extensive rock excavation?
- (xii) In addition, the Music School will require Ministers’ consent for any relocation in terms of the St Mary's Music School (Aided Places) (Scotland) Regulations 2015. This may or may not be granted.

10.3 All of the above creates a very very great deal of uncertainty. What is certain however is that one cannot ensure that the RHSPT will ever be in a position to provide a continuing beneficial use for the RHS. One can be absolutely certain that there is no certainty at the present time which is the test of 3.47(c).

**Para. 3.47(c) “less impact”**

10.4 Paragraph 3.47(c) also requires consideration be given to whether the RHSPT scheme would cause “less impact” to the special interests of the building in the event the Trust is in a legal position to proceed.

10.5 I start by quoting the evidence in this regard from Professor Tavernor.

“Consideration 4: assessment of the consented RHSPT scheme and whether there are other options which would ensure a continuing beneficial use for the building with less impact on its special interest, as set out in the HESPS Policy Statement paragraph 3.47 (C)”.

“1.22 In relation to consideration 4, I conclude that overall the Appeal Schemes would have less impact on the special interest of the FRHS than the RHSPT scheme because:

- both provide public access to the FRHS, however, the Appeal Schemes work with the existing layout of the FRHS; while the RHSPT provides a new public point of entry from Regent Road, requiring radical alterations to the character and design intent of the principal element of the main elevation of the listed building — something that the Whiteburn Projects’

Competitive Dialogue proposals had earlier considered and rejected [APP 33), and an approach that HES (then HS) subsequently warned the appellants' team against pursuing;

- both require the demolition of later buildings set around Hamilton's main building, some of which are listed (but see Mr Wrights very clear evidence in this respect), the Appeal Schemes additionally requires the demolition of the listed gate lodge: however, the quantity of demolition of the existing Hamilton Building by the RHSPT scheme to provide a new entrance foyer beneath the auditorium is considerably greater and will cause irreversible physical harm to Hamilton's building, which the proposed demolition works for the Appeal Schemes will not;
- the proposed demolitions to Hamilton's main building for the Appeal Schemes are reversible and will not threaten its structural stability or the fine jointing of its Craigleith stone (which can no longer be quarried): by contrast, the potential harm to its structure for the RHSPT scheme from excavating the solid basalt foundations would be irreversible;
- externally, the portico of Hamilton's mainbuilding will be left physically unchanged by the Appeal Schemes: with the RHSPT scheme a large new opening will be cut into its external wall at base harming its special interest;
- the main elements of Hamilton's north elevation will remain visible with the Appeal Schemes (more so with Appeal Scheme 2) and a spacious approach to it will be maintained with unencumbered views from Calton Hill Drive; with the RHSPT scheme the existing space between the north elevation and the retaining wall will be squeezed by the proposed north range of buildings and octagonal pavilions and concealed from view;
- the architecture of the proposed accommodation wings of the Appeal Schemes is derived from the topography of the site and is organic in character and clearly distinguishable from Hamilton's main building — the idea of inhabited 'knowes' chimes with Hamilton's own depiction and acceptance of the rugged setting of his design in his 1827 (see drawings 3-7a-d illustrated above) as a craggy (sublime) contrast to his perfect classical forms: the RHSPT scheme derives its architectural language directly from Hamilton's design: with three octagonal pavilions derived from Hamilton's two octagonal rooms, laid out asymmetrically and expressed with simplified classical details and modern materials (zinc and timber screens) and a stone that will appear different to the original Craigleith sandstone and that will weather differently over time; and
- Hoskins Architects' wings are designed to be seen (and with reduced scale and mass to the west wing of Appeal Scheme 2) and to provide the FRHS with a new strong backdrop which — having cleared away the clutter of the existing site — would enhance its setting; while Richard Murphy Architects' design is intended to have a recessive appearance, it will also be visible from the western entry approach and from Calton Hill and from adjacent to the Burns Monument — and, in my professional opinion, what

will be visible of its architecture will detract from and not complement Hamilton's masterpiece.

1.23 It is evident to me that the irreversible harm, risks and uncertainties associated with the RHSPT scheme would be avoided should the Appeal Schemes be granted planning consent. I therefore wholeheartedly commend both Appeal Schemes to the reporters and the Scottish Ministers."

10.6 On the basis of that evidence alone it is certain one cannot ensure "less impact" than the RHSPT scheme.

10.7 In addition consideration must be given to other evidence in this regard. I refer to and rely upon (i) the evidence of Mr Narro; and (ii) the evidence of HES (Mr Robb in cross)

**The evidence of Mr Narro so far as relevant to the HESPS "test"**

10.8 Mr Narro's evidence must be considered in detail along with the Design and Access Statement for the RHSPT proposal (CD 563).

10.9 Section 10 of the DA Statement confirms that there will be

- "a number of significant, structural, engineering challenges";
- "the portico to the south excavation requires significant intervention";
- "Drawing SK01 confirms the extent of demolition below the portico which are characterised as "major slappings". These slappings will require major temporary works ...";
- a small slapping is shown at the pavilion;
- staircases will be removed and new stair cases and lifts will be constructed;
- the following page is even more illuminating as to the extent of the works. I stress that the best that can be said is that the intention is to "limit the cracking or movement of the retained masonry above";
- It is equally clear that a method for achieving all this work has not yet been worked out;
- A few pages later on details are given of the "Rock Excavation". Again no method has been worked out but it is quite clear the work required will be significant and requires "pre-drilling of pilot holes" which will involve significant plant and equipment which will have to enter the main building doubtless by downtakings of the North façade;

10.10 In summary it is hardly surprising that Mr Narro agreed that there was risk of damage to the rest of the Hamilton building and the Portico in particular. He also agreed that such risk would be eliminated by not excavating/demolishing under or near the Portico as the Appellants intend in Scheme 2, I put to Mr Narro the terms of the ARUP Report. Mr Narro had originally been highly critical of ARUP - whether this was due to professional rivalry or not really does not matter. The point is that in cross examination Mr Narro agreed with almost the entire terms of that report except a very small number of words. Accordingly I quote that report here and allow others to judge the accuracy or otherwise of the ARUP's professional opinion.

10.11 I adopt the terms of the ARUP reports (CD186, 289)

10.12 In summary relying solely on Mr Narro's evidence there really can be no doubt that the RHSPT proposals will cause significantly greater impact from both Scheme 1 and 2 to the main Hamilton building - not "less impact".

10.13 In addition, it is equally clear that the RHSPT proposals will have a much greater impact on:

- the south/east retaining wall which will have a new wall built hard against it on the north. Windows on top of it, or immediately beside it depending on which of the RHSPT witnesses one believes. In addition that wall will be covered up on the south if the D&A Statement is to be believed"
- on the east side of the residential building where the proposal is to "remodel Hamilton's retaining wall from an inclined ashlar to horizontal ashlar."

### **Mr Robb**

10.14 I do not repeat here the evidence of Mr Robb which he gave under cross. That matter is dealt with elsewhere.

10.15 There are obviously other aspects of HESPS tests that are or maybe relevant.

#### Para 3.46

10.16 If the proposal will sustain or enhance beneficial use of the building and does not adversely affect the special interest of the building, then consent should normally be granted. The Appellant's evidence shows this will indeed be the case. This is largely confirmed by the evidence of CEC as detailed earlier. Accordingly, 3.47 is not relevant.

10.17 Given that the RHS will be brought into beneficial use with public access it is difficult to imagine how 3.46 is not complied with.

#### Para 3.47

10.18 In the event that 3.47 is relevant then consideration must be given to (a) and (b) of 3.47. However, the overwhelming evidence is that (d) is satisfied. These matters are dealt with elsewhere.

#### Para 3.48

10.19 Consideration must also be given to 3.48 in relation to demolition which requires either a, or, b or c, or d to be satisfied.

10.20 There seems to be agreement that at least two of the buildings are not of 'special interest' and demolition would be an improvement. In truth this I submit applies to the gym, the lunchblock and the classroom. Ms Parkes also accepted it applied to the Gate Lodge.

10.21 The test of c is easily met given the overwhelming economic case which is almost entirely supported by CEC. There is also the benefit of public access and greater security in the area.

10.22 Mr Leslie fairly accepted that the building had been marketed extensively. The decision of CEC was to award the contract to DHP which involved the demolition of the 4 buildings. The project simply would not be economically viable without demolition of those buildings. Accordingly on the basis of the evidence all relevant parts of the HESPS test at 3.48 have been satisfied not just one as is the requirement.

## **11. LOCAL RESIDENTS (RRCTMA)**

- 11.1 Two local residents gave evidence. Local residents are of course entitled to give evidence and are encouraged to do so. I make no adverse comment on the evidence given.
- 11.2 However I do stress that Regent Terrace is by definition a Terrace. Houses are built cheek by jowl. Some windows will overlook some gardens or even other property. This is a city centre location. Noise is a feature of a city centre location, as is vehicular traffic and pedestrian traffic.
- 11.3 Mrs Macdonald seems to accept there will be no overlooking by deleting that part of her precognition. Regent Terrace rises in height east to west and so it is to be expected that any building to the west will be slightly taller than the current buildings on Regent Terrace. The east wing is set back from the Regent Terrace boundary wall as follows:
- 11.3.1 Scheme 1: 17.3m
- 11.3.2 Scheme 2: 13.5m
- 11.4 It should be noted that the distances are greater than shown on CD383. In any event these are significant distances to be compared with the situation on the east where the next building is “attached” as part of the terrace.
- 11.5 The relevant heights are:
- 11.5.1 Scheme 1 East wing parapet: +88.495m
- 11.5.2 Scheme 2 East wing parapet: +88.495m
- 11.5.3 1 Regent Terrace ridge height: +81.50m
- 11.5.4 1 Regent Terrace chimney breast on east party wall of property: +84.13m
- 11.6 Accordingly I submit that local residents have little to fear. Indeed on the contrary the development if consented will preserve, enhance and improve empty buildings as well as providing a rather attractive “locale”. In addition, as the police confirm, the hotel will assist in reducing the “anti-social” behaviour on or near Calton Hill. Surely this will be a significant advantage to local residents?
- 11.7 In summary I submit local residents have nothing to fear - and everything to gain.

## **12. BUILDINGS AT RISK REGISTER**

- 12.1 All five buildings at the RHS feature on this Register. The register lists buildings of special architectural or historic interest that are “at risk”. The RHS is by common consent one of Scotland’s most important buildings for a variety of reasons discussed in evidence. It also lies within the WHS. I submit it is wholly inappropriate for these buildings to be on the register, especially when they lie within the WHS. Indeed some may suggest it is a national embarrassment or disgrace that the RHS is so listed.
- 12.2 I submit this factor adds very considerable weight to granting consent in order to preserve, enhance and re-use the building and so remove the RHS from the register. This must also be a significant advantage to the WHS itself. This is a factor that seems to ignored by opponents of the proposals.

### **13. CD 383**

13.1 This document was issued by CEC to the Appellants. It is pre-application advice relative to Scheme 2. It was to guide design proposals “with regard to the potential for new build”.

13.2 It was confirmed in evidence that this represented the professional judgement of not only the officials of CEC but had also been seen and approved by officials of HES as Mr Robb confirmed ... but only in cross. It is remarkable that all those who gave evidence for CEC and HES remained silent about this document which represented their professional opinions.

13.3 The document is self-explanatory and must be read as a whole. However I do draw particular attention to the following:

- the demolition of all 4 later buildings is accepted as a possibility
- new build is accepted to the east of the site. The footprint shown is actually greater than the east wing proposed
- different heights are shown for different floors exactly as per the proposal
- the height shown is broadly the same as the proposal. There is in fact about 2m in difference only. The lift overruns are not required according to Mr Gibb in his Note requested by RHSPT.
- some development is shown to the west of the site
- there is limited potential for development to the rear of the site. This supports the appeal proposals and is contrary to the RHSPT proposal
- the guidance seeks to preserve the rear façade and the building around it - exactly as the appeal proposals do but the RHSPT proposals do not.

13.4 It was accepted very fairly by Mr Leslie that the east wing is broadly consistent with CD383. It is obvious that the Appellants proposals for the RHS are entirely consistent with CD383 and the ambitions to repair, enhance, preserve and re-use the RHS building.

13.5 CD383 represents the professional opinion of CEC officials and also HES officials and great weight should attach to it.

13.6 In summary this means or should mean that the preservation and enhancement to the RHS building is to be strongly supported. The east wing is in accordance broadly with the advice and so should be supported. Mr McMeeken accepted the advantages of demolishing two ancillary buildings. CD383 accepts the possibility of demolishing the rest of the buildings in appropriate circumstances. Some development is acceptable to the west. The only issue then is or should be the question of the quantum of development to the west.

### **14. SECURING A HIGH QUALITY HOTEL OF INTERNATIONAL STANDING**

14.1 I submit that as a matter of law there can be no doubt as to the type of hotel that will be provided if consent is forthcoming. This is an unusual situation where the Local Authority is the site owner and is not selling the property but granting a long lease. CEC will therefore have continuing ownership and therefore control, and will be able at all times to enforce the terms of the contract.



- 14.2 The missives or contract are before the Inquiry and I simply draw attention to:
- “The Desired Content” (page 2 of CD 650a) which requires not less than 120 bedrooms. Mr Leslie confirmed this was required by CEC to ensure a quality hotel. This also requires publicly accessible art space.
  - “Development” (page 2 of CD 650a) this confirms the requirement for the high quality Hotel of international standing - and not a budget hotel or similar.
  - “Proposals” (page 4 of CD 650a) this further confirms the nature of the Hotel.
- 14.3 In addition this lease is also before the Inquiry CD650f. This confirms at Clause 26.1 (N.B. the Clause numbers appear to be out of sync due to an automatic numbering issue) that the Tenant must not use the property except for a permitted use. Permitted uses are clearly defined at Clause 23.6 (actually to be Clause 2.6 in the final lease). The relevant Clause and Sub-clauses refer expressly more than once to “a high quality hotel of international standing” - “but not for the avoidance of doubt a budget hotel or similar”. There is also reference to “publicly accessible art exhibition space”.
- 14.4 An agreed statement has been provided by CEC and the Appellants (CD 765) confirming the duration of the exclusive binding contract between the parties. This of course, as is stated, may further varied to lengthen the relevant period. Accordingly the actual end date is not certain but is several years away.
- 14.5 The existence of the missives and the lease are material considerations. This must be so not least because CEC are the landlord as well as the planning authority. CEC are in a perfect position to enforce the terms of the missives and lease. The missives and lease in the particular circumstances of the unusual case are of a planning nature. They control the use of the land in a way thought appropriate to CEC as landlord and planning authority. In *Stringer v Minister of Housing and Local Government* other material considerations were stated to be “any consideration which relates to the use and development of the land” (1970 1 WLR 128). This is precisely what the Missives and Lease do. Accordingly one can be confident that what will be delivered will indeed be the high quality hotel of international standing. To ignore these material considerations would render any decision liable to challenge.
- 14.6 In addition several of the Appellants’ witnesses confirmed that from a practical point of view the design as submitted and at appeal could only be used as a high quality hotel of international standing.
- 14.7 This is due to *inter alia*
- valet parking (not many budget hotels have that)
  - room size and numbers
  - suite size and numbers
  - the quality of the design
  - the quality of the spa

- the size and quality of the public areas which simply would not be sustainable for anything other than a high quality / luxury hotel
- the nature and number of dining areas, bars, conference area
- the spaces designed for art exhibitions/shows. This includes widened corridors to enable this
- conditions have been offered to secure the foregoing so far as possible. These conditions meet the relevant tests of Circular 4/1998 on Conditions. They secure a planning purpose and are reasonable and certain.
- the operator will be Rosewood and I refer to APP 49 section 6 for evidence of the advantages of a hotel of this nature.

14.8 Last but not least is the fact that the evidence, which was not contradicted, is that there is a legally binding contract with Rosewood who is indeed the operator of high quality hotels of international standing. It should also be noted that witnesses for the Appellant confirmed that the design referred to above had been approved by Rosewood. There are two letters from Rosewood lodged which are not capable of any other interpretation except that Rosewood is legally committed to the project. This factor is also a material consideration as this will also control the use of the land and is something CEC have control over.

14.9 In summary taking all these issues together there can be no reasonable doubt as to the type and nature of hotel that will be provided here. This is certain from a legal standpoint, not least because CEC is the landlord who can rely on the Missives and the Lease as briefly outlined above. Indeed CEC in CD 419 at pages 40/41 confirm that “it is clear that a hotel of the very highest quality is proposed”.

## 15. INQUIRY SESSION 2

15.1 This session addressed the four issues identified by the Reporters.

1. Assessment of the impacts and net economic benefits of the schemes, including job creation, economic capacity and contribution to sustainable economic growth;
2. Whether those impacts could be achieved in another way or on another site;
3. The geographic extent of the impacts and whether benefits would be reduced elsewhere. The lifetime of the impacts and any risk to the predicted outcomes;
4. Examination of relevant policy and guidance. However, the reporters consider that the policy position is largely understood by them and by the parties. They therefore caution against extensive cross-examination on this matter.

15.2 Against that background, I will now set out for ease of reference the conclusions of the five witnesses led by the Appellants. It is remarkable that there was little or no cross examination of these witnesses except of course from the RHSPT!

## 16. APPELLANT’S EVIDENCE

### 1. Mr Logan

37. My evidence relates to two of the questions posed by the reporters for Session 2. Question 1, namely, an assessment of the impacts and net

economic benefits of the schemes, including job creation, economic capacity and contribution to sustainable economic growth.” Question 3, the geographic extent of the impacts and whether benefits would be reduced elsewhere. The lifetime of the impacts and any risk to the predicted outcomes.”

38. If the proposed Rosewood Hotel is built with 147 rooms, the net impact (after displacement and with 20 percent allowance for optimism bias) on Edinburgh’s gross value added is estimated to average £21.3 million a year once operational (in 2017 prices, in present value terms). It is estimated to support an annual average of 710 jobs a year in the city on an ongoing basis.
39. The estimates of the net impact (with 20 percent allowance for optimism bias) on the whole of Scotland are larger. We estimate the proposed 147 room Rosewood Hotel would support an annual average gross value added contribution to Scottish GDP of £24.7 million (in 2017 prices, present value terms). This level of economic activity is estimated to employ some 770 people.
40. In total, on a net basis (with 20 percent optimism bias) the 127-room project is forecast to generate £19.9 million per annum in GDP at 2017 prices (in present value terms), for the Edinburgh economy on an ongoing basis once operational. It is estimated to support around 620 local jobs on average.
41. For the whole of Scotland, the operation of the proposed Rosewood Hotel at 127 rooms is estimated to generate a net average of £23.0 million per annum in GDP, at 2017 prices (present value). It is estimated to stimulate around 690 jobs across the country on average.
42. To assist in the judgement of whether the impacts are economically significant, I have drawn relevant comparisons for each metric and with other projects that have received planning permission. On this basis, I judge the impacts to be of regional and national importance.

## **2. Mr Jones**

- 8.1 The inquiry is seeking to ascertain if the economic benefit of the hotel can be achieved in another way or on another site. I have sought to answer whether it can be achieved in another way by analysing the Former Royal High School site’s potential for development under alternative uses.
- 8.2 Mu 2015 report was independently assessed by CEC and its outputs and conclusions deemed an accurate reflection of the viability of alternative uses. My approach under this report remains broadly similar.
- 8.3 The appraisal outputs for all alternative commercial uses under the original scenario produced negative land values in 2015 and 2017. This indicates that development for these uses at the densities analysed is not

commercially viable. This process has been updated for 2018. All land values are still negative and my conclusion remains the same.

- 8.4 Appraisals reflecting the proposed Scheme 1 and Scheme 2 footprints are mostly negative. Under this scenario, development including a budget hotel is positive and therefore financially viable. However, when assessed qualitatively there are operational financial and legal restrictions that affect overall viability and ultimately prevent this use being taken forward.
- 8.5 The suggested alternative scenarios are either not under consideration by the end occupier or not viable.
- 8.6 CEC's desire to retain ownership of the site and limit its use to a hotel of international standing under the terms of the ground lease further restricts development and prevents alternative uses from being taken forward without its consent.
- 8.7 In my opinion, there are no alternative commercial uses capable of using the site without firstly significant levels of development involving demolition and increased density beyond the Scheme 1 and Scheme 2 proposals and secondly a relaxation on the use stated within the development agreement.
- 8.8 Reuse of the site in whole or part by a public organisation faces two issues namely configuration of the buildings and funding. Whilst there is a history of public and civic interests, these have failed to progress for several reasons including building adaptation and funding. There is therefore no guarantee that individual projects of this nature are viable.
- 8.9 The scheme proposed by DHP/UH was not appraised, but given it is being progressed as a private enterprise must be considered economically viable.
- 8.10 In my opinion, I can therefore firmly state that the net economic benefits of the two proposed schemes cannot be achieved by an alternative use on the site of the Former Royal High School.

### **3. Mr Kett**

51. My firm's analysis relating to the proposed Rosewood Hotel Edinburgh demonstrates that I consider the proposed 127-room scheme to be economically feasible; however, the 147-room scheme would be preferable commercially, and there would be a greater margin of safety.
52. With specific reference to the Procedure Notice on Inquiry Session 2, Points 1 and 3, I consider that the net economic benefits of the two schemes as outlined in my firm's analyses and by the analysis carried out by Andy Logan of Oxford Economics are achievable, and their contributions to sustainable economic growth are valuable and sustainable, The two schemes are of national importance.
53. It is my view that the development of 'high-end' hotels is implicitly acknowledged as being a core aim of ETAG's tourism strategy, and bringing the former Royal High School back into use as a world class

luxury hotel that encourages public interaction with the historic property and its immediate environment would specifically address their current initiatives which are of national and regional importance.

54. With specific reference to Procedure Notice on Inquiry Session 2, Point 2, I concur with the view of Marc Finney of Colliers, and do not consider that the proposed schemes and their resultant net economic impacts could be achieved in another way or on another site.
55. With specific reference to the Procedure Notice on Inquiry Session 2, Points 1 and 3, it is my view that bringing the former Royal High School back into a sustainable use as a world class luxury hotel would specifically address the current priorities of the Edinburgh Tourism Action Group (ETAG) which is of greatest regional importance.

#### **4. Mr Finney**

By way of conclusion I have elected to summarise my evidence under the headings that the Reporters identified for this inquiry session (2). Further details are available in my Inquiry report.

- 3.1 Assessment of the impacts and net economic benefits of the schemes (job creation, economic capacity and contribution to sustainable growth).
  - 3.1.1 The review that I have carried out of the two schemes has identified that the impacts and net economic benefits are very significantly positive and have been clearly demonstrated. These include the tangible and easily measurable effects which have been demonstrated using internationally accepted methodologies in the report prepared by Oxford Economics.
  - 3.1.2 In addition to the Oxford economics report I have provided evidence that Edinburgh is an under-supplied hotel market and that it is underperforming economically as a result. I have further demonstrated that this shortage of hotel rooms is particularly acute at the luxury end of the market with Edinburgh having fewer rooms in absolute terms and as a percentage of the total hotel stock than, for example, Dublin.
  - 3.1.3 I have also evidenced that this shortage of hotel stock is manifesting itself in Edinburgh by way of a boom in unregulated accommodation with Airbnb registering a 20% share of the market — higher by far than comparable cities. This unregulated stock doesn't always pay VAT, doesn't always pay business rates, does not meet the stringent fire, health and safety requirements of hotels, often doesn't pay correct wages and payroll contributions. However, they do benefit from significant attractions that the city has to offer. While not all of this would be absorbed by a new high-end hotel I have also evidenced that the shortage of hotel accommodation is particularly acute at the high end of the market.

- 3.1.4 To this I would add the very significant intangible and less easily measured benefits that cities gain following the opening of a world-class luxury hotel. This includes improved profiling of the city on a global stage, ability to attract Ultra High Net Worth and High Net Worth Individuals to visit the city and perhaps to then decide to invest further in the city and in Scotland. The global employment opportunities that would be generated for the young people of Edinburgh and further afield and the boost that it would provide for tourism and tourism investment within the wider region and throughout Scotland.
- 3.1.5 It is worth adding here that hotel and tourism income is effectively a Service Export in that it attracts people who have earned their money elsewhere to spend it within the market area. Accordingly, to the extent that the hotel will attract guests from other parts of Scotland, the UK and internationally, it improves the balance of payments of Edinburgh, Scotland and the UK. In my opinion there will be a high proportion of guests that fall into one or more of these categories at the proposed hotel.
- 3.1.6 These benefits are, in my opinion, significant, economically sustainable and demonstrated by the Oxford Economics report. They would accrue under both schemes but with the larger scheme (Scheme 1) providing a higher level of financial benefits.
- 3.1.7 With reference to the inquiry report of Carla Parkes acknowledges (13.17) that the hotel is designed as a “High-End hotel” and *‘.. that such a hotel could generate higher than average employment rates for hotels, both directly and indirectly* “. Her primary concern here and in 13.18 appears to be the ability to secure such positioning and a fear that this is not possible through planning legislation. To allay this fear, I can firstly point out that the expense of delivering such a hotel and the development costs are so high that it would be totally unviable to deliver the hotel with anything other than a luxury market positioning. I would also point to my independent review delivered with Scheme 2 which pointed out that the contract with Rosewood was *“.. above average length..”*. The average length of an international Hotel Management Agreement is 20 years so the operation and positioning of the hotel is locked in for at least the length of the contract and that from my report can be inferred to be significantly longer than the 20-year period. My report also indicates severe penalties for curtailing this contract and also the fact that it has features which would see the contract survive even the failure of the developer. To a significant extent these features should allay those expressed fears of Carla Parkes.

31.8 In 13.19 Carla Parkes refers to the need to consider displacement. The report on this subject by HVS should allay those fears as should my own inquiry report that clearly establishes Edinburgh as an under-supplied market. On the tests outlined in the Scottish Government's draft advice on Net Economic Benefit & Planning, referred to in the inquiry Report of Kyle Drummond (2.3.18) my review of the five factors mentioned in relation to hotel development would further lead me to the conclusion that the displacement effect would be very limited.

3.2 Could these benefits be achieved in another way or on another site?

3.2.1 It is my opinion that there is not another site in Edinburgh that meets the qualifying criteria, for a world-class luxury hotel in the timeframe within which the former Royal High School would come to fruition or is simply not available for development at this time.

3.2.2 A detailed review was carried out of 22 potential sites throughout the city with only the appeal site meeting all of the Criteria. The research did identify the potential of St. Andrew's House but this is not considered to be available and as such is not a realistic opportunity at this time. Were it to become available there would be design challenges around the fenestration and ceiling heights in my opinion.

3.2.3 No viable alternative use for the appeal site has been identified that would bring anything near the same level of economic benefits.

3.2.4 In 13.20 of her Inquiry Report Carla Parkes contends that the benefits could be delivered elsewhere through the uptake of one or more of sites with hotel development potential. The updated Colliers report to this inquiry identifies that there were no existing available sites that are suitable however Carla Parkes claims that it is her . . . considered opinion that other windfall sites will likely to come forward. This demonstrates a clear misunderstanding of the very stringent criteria that such operators apply to site selection and which we have exhaustively identified. The Colliers report included possible hotel opportunities not currently being marketed as well as identified hotel opportunities. There may well be windfall sites that bring forward hotel developments however it is my belief that there are none which will be suitable for a hotel of the standard envisaged with the exception of St Andrews House, which is not available for the use envisaged, nor will be available in the short to medium term, if at all.

3.2.5 To illustrate her point Carla Parkes points to the recent granting of permission for the former RBS headquarters in St. Andrew's square (13.21). This was covered in our report and is being developed not as a hotel but rather as short-let apartments — a long way short of what is proposed for the Rosewood Hotel. Carla similarly points to the India Buildings development (which I have had some considerable involvement with having sold the India buildings on behalf of RBS. West Register). This perhaps further demonstrates a potential lack of understanding of the quality of hotel proposed for the RHS as the India buildings hotel is due to be operated by Virgin Hotels. While it will certainly make an interesting addition to the Edinburgh hotel offering this is a very long way from a World-Class luxury offering such as that proposed for the Rosewood. It is much more of a lifestyle offering and while it might achieve a 5 rating it is much more of a corporate offering on a par with the W' hotel offering of Starwood Hotels & Resorts. Further evidence of a lack of understanding of the product proposed is shown in the suggestion that this could be delivered outside the city area such as Gleneagles (13.22). This is a wholly different product targeting primarily a leisure market to enjoy the country pursuits for which Scotland is rightly world renowned. The Rosewood would be an urban hotel of equivalent stature.

3.3 The Geographic extent of the impacts and whether impacts would be reduced elsewhere. The lifetime of the impacts and any risk to the outcomes predicted.

3.3.1 The impacts would clearly be most felt within the City of Edinburgh but it is my opinion that there would be a wider regional effect and that some of this would be nationwide. This is demonstrated by the work undertaken by Oxford Economics.

3.3.2 Many of the wider impacts are often intangible and harder to measure but one can look at the example of Gleneagles and the impact that this iconic hotel has had on the wider regional economy (Perthshire) but also on the national and international stage. We would envisage a similar wide-reaching benefits for Edinburgh's and Scotland's new best hotel. I have also highlighted the positive impacts that the hotel would have on the Balance of Payments for Edinburgh, Scotland and the UK in 3.1.5

3.3.3 In terms of lifetime of the benefits it is my evidence that such hotels have a very long life indeed and out-strip most forms of property in terms of longevity. While office developments have a limited shelf life and need regular alteration to suit the needs of constantly changing tenants on shorter term contracts, hotels



tend to provide a longer term occupation and more consistent and sustainable use.

3.3.4 Hotels have a high staffing ratio and while technological advances will clearly make some functions more efficient there will always be a need in a high end hotel for high levels of staffing. The range of jobs in a hotel is also varied from executive positions (General Manager, Finance Director, Head of Marketing) to administrative (accounts clerks, reservations staff) skilled manual (Chefs, senior waiters' housekeepers, receptionists) to more basic level staff (chambermaids, porters, junior waiters etc.).

3.3.5 The details of the Hotel Management Agreement (HMA) with Rosewood Hotels & Resorts are confidential but I can confirm that it is for a term considerably longer than is normal for such agreements and has clauses which mean that the contract would survive the failure of an investor — meaning that the hotel quality would be guaranteed even in the event of the failure of an investor. This means that a new investor/developer could not simply take over and operate the hotel at a different standard such as a 3 or 4-star hotel. The design, investment level and nature of the conceived scheme is such that failure would be extremely unlikely in any eventuality and that even if this did occur any new investor would be compelled to provide a similarly positioned hotel.

3.3.6 The constitution of the development team has also been carefully considered and the project is well conceived and funded making the risk of failure extremely unlikely. We would also highlight the following that in my view;

- The development team are experienced and well-qualified to develop a hotel of the nature proposed.
- The business plan has been well thought through and diligently prepared.
- There is documentary evidence to support the deliverability of the proposed business plan.
- While there are some discrepancies in the two operational profit forecasts, both of them show returns on investment that would lead U3 to consider the project viable.
- The developers have put together a strong and well-experienced advisory team capable of assisting the developers in achieving their objectives.
- The developers have contracted with a very high quality operator with a proven ability to deliver superior and market-leading performance in the UK.
- The development team have proposed a sensible finance plan and have provided evidence of its achievability.

3.3.7 We understand that the council has commissioned an independent review of the viability study, from PKF which reviewed the report work carried out by HVS and my own report. This report acknowledged the credentials of HVS, myself and Colliers and found that the viability study had been well prepared in line with industry norms. It further concurs that Edinburgh is lacking a truly world-class luxury hotel and concludes that they could find no major concern in the reports reviewed.

3.4 **Relevant Policy Guidelines**

3.4.1 I have not considered myself qualified to comment on this aspect and this is evidenced elsewhere in the appellants submissions.

**5. Mr Mappin**

3.1 There were 12 reasons for refusal of the 2017 Planning Application. These effectively repeat the terms of the 2015 refusal (noting the subsequent adoption of the LDP). albeit with an additional 12th reason for refusal. Addressing the reasons for refusal provides a summary of the appellants case overall:

1. The detailed evidence submitted with the applications and appeals demonstrates that the proposals would not harm the Outstanding Universal Value of the WHS and would in some respects enhance it. The small number of adverse effects identified will be counterbalanced by beneficial effects.
2. The proposed demolition is fully justified as the demonstrable economic and wider community benefits would outweigh the impact on buildings of lesser merit.
3. Setting issues have been comprehensively addressed. The proposals are of the highest architectural merit and would make a positive contribution. Impacts on setting have been minimised. and would not be significantly adverse. The small number of adverse effects identified will be counterbalanced by beneficial effects.
4. The proposals would enhance the principal listed building and any impacts on the building are minimised.
5. The impact on the wider landscape and specific features is not unusual in an urban setting, and would be minimal in any case.
6. There would be no significant adverse impact overall on landscape features of acknowledged importance.
7. The original proposals were commended in terms of architectural approach. The design of both schemes responds to the carefully understood context, would make a positive contribution to the surrounding area and would have no

significant adverse impact on heritage assets. The small number of adverse effects identified will be counterbalanced by beneficial effects.

8. The original proposals were commended in terms of architectural approach. The design of both schemes responds to the carefully understood context and will make a positive contribution to the surrounding area and would have no significant adverse impact on heritage assets. The small number of adverse effects identified will be counterbalanced by beneficial effects.
  9. The proposals respect the prevailing building height and cannot be considered ‘tall buildings that impact negatively on the skyline. Key views and other townscape views have been assessed and there would be limited impacts on these.
  10. It has been demonstrated in separate submissions that there would be no material loss of sunlight provision to neighbouring property.
  11. The character and appearance of the area, as well as key views, has been fully appreciated and assessed. The proposals would bring a building back into long-term use after 50 years, contributing to the activity, safety and security of the area. The design is well-considered and of the highest quality, respectful of the context. The use as a hotel has never been disputed, and the developers were appointed on the basis of delivering that use. The proposals conform with the 2008 Development Brief.
  12. The impact on the character and setting of the conservation area has been comprehensively assessed. All identified views have been analysed and there would be no overall negative impact.
- 3.2 There were four reasons for refusal of the 2017 Listed Building Consent Application, which I comment on below:
1. The design of the proposals and the impact on heritage assets has been comprehensively explored and assessed. The impact on special character of the principal listed building has been minimised and would be acceptable, while still ensuring that the proposals are viable to bring the building back into long-term sustainable use.
  2. The understanding of the principal listed buildings and their setting is a matter of dispute between the appellants’ team, CEC and consultees. The appellants proposals are based on a robust and credible understanding of the site and buildings.
  3. The planning applications at appeal should be supported in terms of the development plan and other material considerations. The

proposals are justified in design terms and because of their significant economic benefit which should be regarded as of regional and national importance. This is in accordance with HESPS and the LDP.

4. The design has been fully considered in relation to scale, mass, layout and form based on a comprehensive understanding of the historic and physical context and the proposals entirely respect the principal listed buildings.
- 3.3 The proposed development of the FRHS would provide Edinburgh and Scotland with a quality of hotel not previously seen. The history of the property and the planning, design and heritage considerations have been thoroughly researched and considered by the appellants.
- 3.4 The building has not been beneficially occupied since its closure as a school in 1968. Successive owners have been unable to identify a viable long-term use for the buildings. There have been a number of short-term, transient occupiers. The developer competition in 2009 responded to these challenges by requiring a commercially sustainable proposal for the property. This resulted in the appointment of developers who have identified a credible and viable use for the site, and principal buildings.
- 3.5 In bringing forward revised proposals, the appellants responded to the terms of the December 2015 decision and the subsequent pre-application consultation exercise. This resulted in significant reduction in the scale of development and the level of intervention in the listed buildings. The original scheme retains planning merit and should also be supported given its architectural quality and enhanced economic benefits.
- 3.6 The appellants have presented evidence to confirm that a world-class hotel such as that proposed could not be delivered at another location in the city. The luxury hotel sector is unrepresented in Edinburgh and attracting such operators will enable the city to compete with others across Europe. There is a clear commitment from the appellants to deliver a world class hotel development. A world class hotel operator in Rosewood Hotels remains fully committed to the project. This is not a speculative venture, but a project with a defined path to achieving the significant benefits that the hotel would generate for the city, region and Scotland as a whole.
- 3.7 Evidence has been presented to confirm that the level of development proposed is the minimum required to make Scheme 2 viable. No other use or combination of uses, for the existing buildings with a lesser amount of new development would yield a viable alternative approach.
- 3.8 The proposed development would bring significant wider economic benefits, as well as the restoration and reuse of the principal listed school building. It will also allow public access for the first time and yield significant community, environmental and cultural benefits.

- 3.9 The proposals would have limited impact on the special interest of the retained listed buildings, and will be beneficial in many regards. The original school building and pavilions would be restored and re-used. The new elements proposed would be of the highest architectural quality. On balance the development would make a positive contribution in overall terms to the setting of the retained listed buildings, Calton Hill, the World Heritage site. other heritage designations and the wider city.
- 3.10 If the Reporters accept the expert evidence presented, the proposals accord with the development plan. The National Planning Framework and Scottish Planning Policy are also supportive. The proposals meet the requirements of the Historic Environment Scotland Policy. The proposals also support national economic and tourism policy initiatives.
- 3.11 No evidence has been produced to demonstrate that the proposal being advanced as an alternative development is deliverable. Notwithstanding, the RHSPT proposal has significant drawbacks in relation to key planning and heritage considerations.
- 3.12 The environmental impact of the hotel proposals would be acceptable. There has been significant public interest in and support for the development.
- 3.13 I would ask that the appellants position on the planning merits is given due consideration and that planning permission and listed building consent is granted on appeal for both schemes.
- 16.1 In conclusion I submit that the evidence led by the Appellants on topic 2 is credible powerful and highly persuasive. It is clear that the benefits will be very significant indeed in relation to job creation and contribution to sustainable economic growth. Indeed what could be more sustainable than re-use of a vacant deteriorating iconic building on the Building at Risk Register. The benefits far far outweigh any possible perceived disbenefits there are suggested to be.

## **17. CITY OF EDINBURGH COUNCIL - ECONOMIC ISSUES**

- 17.1 The starting point for consideration of the CEC evidence is the consultation response by the Economic Development department. This is CD300. I refer to the entire terms of that response. However for brevity I only reproduce here the summary response.

*“As an economic impact assessment carried out by Oxford Economics suggests that the FRHS complex could, if redeveloped, directly support approximately 260 jobs. This compares favourably to the number of jobs currently supported by the complex (<5) and the number of jobs it is though the FRHS could support if brought back into use as a school (33 teaching posts plus ancillary posts). It is estimated that the current FRHS complex could potentially support approximately 252 full time equivalent jobs if fully-let as office space but the feasibility of this is considered to be low (emphasis added).”*

Oxford Economics calculates that the development could potentially support a total of 840 jobs in Edinburgh (once supply chain expenditure, staff expenditure and

visitor expenditure are taken into *consideration*) and increase the city's economic output by £31.5 million per annum. The development would therefore be a substantial economic benefit.

The development would entail the removal of buildings 2, 3, 4, and 7. It is noted in particular that building 7, the Gate Lodge, is A-listed and currently in good condition. It is proposed that the developer could be requested to investigate the prospects for relocating building 7 for preservation elsewhere within Edinburgh rather than being demolished. This would avoid the loss of a listed building in good repair. If this is judged to be feasible, the City Strategy and Economic service would be able to assist with identifying alternative locations.

It is recognised that much of the debate around the development to date has been centred on the aesthetics of the additions to the building. It is suggested that the following considerations should be noted.

- The FRHS complex is currently dilapidated (emphasis added), with significant damage to the building exteriors and some damage to the interiors. The Council currently spends in the region of £250,000 on the complex annually; however, this sum, covers only basic maintenance and does not allow for major repair works. Given the pressures on public sector finances, the ability of the Council to meet the costs of maintaining the building indefinitely is questionable. There is therefore a significant risk that, if the building remains in its current status, it will continue to deteriorate. Continuing with the status quo is therefore not considered to be a sustainable approach (emphasis added).
- There have been a large number of proposals for the reuse of the FRHS since 1968, none of which have materialised. Many of the proposals have been contingent on securing large-scale support from the public sector. The current proposal for the reuse of the FRHS was identified following a European Union-wide tendering exercise during which the current proposal was identified as the strongest of 54 competing proposals. There is therefore a risk that, if the current proposal does not proceed, no credible alternative projects will materialise the building will not secure the investment necessary to arrest its decline.
- The FRHS complex is currently closed to the public and has been for the vast majority of its working life. The proposal in question would make 27% of the building accessible to the public — less than might be expected from a museum or other visitor attraction, but significantly more than might reasonably be expected from a school, office or other non-public facing use.
- The impact of the redevelopment of the FRHS upon the surrounding area is of relevance. As identified in the Princes Street Development Brief for Block 10, Regent Road is an underutilised area of the city centre. Calton Hill, Jacob's Ladder, and the New Calton Burial Ground are prone to antisocial behaviour. There is therefore a need to attract significant additional footfall to the area to enliven it. It is considered that a full-scale hotel incorporating restaurants, a spa and other attractions is likely to

generate this footfall. The FRHS occupies a strategic location between the Edinburgh St James and New Waverley developments and has the potential to catalyse further investments in the surrounding area.

- The FRHS is one of the “Edinburgh 12” —12 strategic gap sites within Edinburgh’s city centre identified as having the greatest economic impact. The Edinburgh 12 collectively have the potential to directly support up to 19,000 full-time equivalent jobs. As a development opportunity of international calibre, the FRHS has the potential to attract large-scale inward investment into Edinburgh. There would be a significant opportunity cost attached to any development that did not leverage large-scale investment and yield large-scale gains for the economy.”

17.2 In addition consideration of the terms of the Committee Report CD419 further confirms the position.

*“As a result the development could make a very positive contribution to Edinburgh’s economy and contribute significant benefits to the wider economic growth for the wider region and nation” (page 23) (emphasis added)*

*“It is accepted that the economic benefits to the city region and nation are significant enough to justify this demolition”. The demolition referred to is the classroom/ gym block and the gatehouse” (page 24) (emphasis added).*

17.3 I also quote two paragraphs at pages 40/41. These further confirm the economic advantages

*“The development of a Luxury hotel would assist in addressing the demand for high quality hotels accommodation in Edinburgh, as identified in the 2012 Tourist Accommodation Audit. It is noted that four new luxury hotels are currently in the pipeline in Edinburgh, but the Audit reports that there is still an estimated shortfall of rooms required by the target date of 2021. Whilst the planning system can have no remit over the type of hotel use, it is clear that a hotel of the very highest quality is proposed. The quality provided is likely to attract high spending tourists and business people. This is a sector of the hotel market that Edinburgh does not cater for adequately. The income derived from the tourist industry makes a strong contribution to the city’s economy.*

*It is accepted that there would be significant benefits to the economy and to tourism resulting from the provision of the proposed hotel at this landmark location within the city. As a result, the development could make a very positive contribution to Edinburgh’s economy. However, it is also recognised that the city’s historic and cultural heritage and landscaped setting are key attributes which attract tourists to our city. The damage caused to the city’s heritage and landscaped setting, as a result of the proposed development at this highly prominent site could potentially have an adverse impact, in the longer term, on the city’s economy. It is not possible to quantify this impact. There would undoubtedly be immediate positive impacts from allowing the development. The proposal is not considered to have any adverse economic impacts general terms and would bring economic benefit to the city.”*

17.4 The precognition of Mr Kyle Drummond fairly confirms and repeats much of the foregoing. Accordingly I refer to its terms but do not repeat it here.

17.5 I draw attention only to four additional factors:-

- “There is a risk to the city’s WHS status of leaving the site fallow given that five of the buildings within the site are already identified as being at risk (and at high risk) and the site overall is visibly deteriorating” (para. 6.3)
- “The likelihood of the city’s visitor economy being adversely affected by the aesthetic implications are considered to be low” (para. 5.6)
- The hotel will act as a catalyst for more development at the east end.
- CEC commissioned PKF. That report confirmed that the submissions by the Appellants were reasonable and credible.

17.6 In summary then the CEC position on economic issues is similar if not identical to that of the Appellants. Very great weight indeed should attach to these issues.

## **18. RHSPT**

18.1 Evidence was led from Dr Conlon. In contrast to the Appellant’s witnesses, he appeared to have no or very limited experience of hotel economics. This should be seen for what it is - an attempt at any cost to criticise any and indeed every aspect of the Appellant’s proposal. Instead of accepting at the outset that there would be a very significant economic advantages from the proposal Dr Conlon instead adopted an approach of questioning every fine detail.

18.2 The complaints related to optimism bias and displacement. However these issues had been fairly addressed by Mr Logan, and CEC economics department seemed satisfied with Mr Logan’s calculations and opinions.

18.3 In any event in cross Dr Conlon accepted that the economic benefits could be many tens of millions - I think he mentioned £70m. It is worthy of note that Dr Conlon introduced evidence at 4.7 regarding an appropriate level of optimism bias which he accepted in cross was wholly irrelevant. Indeed some may easily have been confused or possibly misled by his references to 75% and up to 90%. These figures were simply not relevant as Dr Conlon accepted in cross. This of course begs the question as to why they were mentioned at all.

18.4 In short very little weight if any should attach to Dr Conlon’s evidence. It represents further attempts by RHSPT to nitpick and or find the finest of fine detail to criticise. I suppose one can at least say RHSPT were consistent in that approach throughout the duration of the Inquiry.

18.5 The determination to attempt to stop the hotel development come what may and at any cost was confirmed time after time. Dr Conlon’s evidence was simply but one more example of this approach. However it all came to nothing as Dr Conlon accepted that there would be very significant economic advantages from the Appellants proposal and most certainly significantly more than an RHSPT scheme.



## 19. CONCLUSIONS ON ECONOMIC MATTERS

- 19.1 The economic advantages of the proposal will be very very significant indeed. The Appellant's evidence in this regard was confirmed by CEC, and the CEC economic development department. The CEC Report confirms the Appellant's evidence that the economic advantages are of national and regional significance
- 19.2 The advantages are sufficient to satisfy any or all parts of the relevant tests of the HESPS either in para 3.47 or 3.48 or both. Indeed CEC accepted this in the Committee Report as detailed earlier.
- 19.3 In addition this is a material consideration to which very great weight should be attached and would outweigh any perceived disadvantages of the proposals. Finally the economic advantages would outweigh any possible conflict with the development plan even if there is found to be any conflict.

## 20. OVERALL CONCLUSIONS

- 20.1 I submit that the evidence on a fair reading clearly confirms that the proposals are in full accordance with the Development Plan and also that all other material considerations further support the proposals.
- 20.2 I say that for two separate reasons -

- (1) Professor Tavernor told us "the two Appeal schemes are of exceptional architectural quality" (para. 7.8) "both designs by Hoskins Architects would leave the setting of Calton Hill and the WHS unharmed - indeed I believe that the high quality of their designs are such that they will enhance the appeal site and will reinforce this place as a positive destination within this exceptionally beautiful city" (para. 7.26). Other witnesses for the Appellant gave similar if not identical opinions. A&DS the Government adviser on architectural design which comprises a panel of architects also support the design and the materials. This is praise indeed. It is notable that CEC and HES chose not to call architects as witnesses, nor did the RHSPT. The AHSS led Mr Peter Drummond who is a conservation architect but he did not in his precognition suggest refusal. Accordingly all architectural evidence points only in one direction namely approval. If all of this evidence is accepted as I submit it should be then it is beyond doubt that the proposal accord with the Development Plan.

In addition this evidence provides a complete answer to the terms of the LBCA Act S. 59(1) and (3) and S64. The evidence confirms that the RHS building will indeed be preserved as will its setting and any relevant features (s.59(1) and (3)). In addition the character and appearance of the area will indeed be preserved and enhanced (S64(1)).

I note of course that the test in s59 is one of "serious detriment" not just detriment. It may be obvious but surely the best way of preserving and enhancing the RHS is to restore it and put it to beneficial use precisely as is intended.

- (2) The second reason I submit that the proposals should be consented relates of course to the very very significant economic advantages that will arise from the development. This has all been spoken to in evidence both by the Appellants and

CEC witnesses. The economic advantages mean that the proposal is in accordance with the Development Plan, failing which it is a material consideration that would outweigh any possible conflict. The economic advantages also mean that the HESPS tests are met.

- (3) In truth then the real issue is should permission be granted or be refused in which event there is certainty that the building will remain empty and continue to deteriorate further. This is I submit unacceptable and a further material consideration in favour of consent. Some of course believe or hope that refusal will lead to the RHSPT developing the site. However the evidence does not support that outcome. I have set out earlier the actual evidence as opposed to the gossip and speculation.

Dr Grigor had nine years to save the building and develop it as a photographic museum. However the funds did not materialise and so the project was abandoned. Dr Grigor has now decided to leave the Athens of the North in favour of Dublin. The reason is to avoid paying taxes which our Government deem appropriate. It is a matter of judgement and impression as to whether this exodus increases or diminishes the likelihood of the RHSPT proposal ever proceeding.

In contrast what the Appellants Duddinghouse House Properties (based in Duddingston) and Urbanist Hotels (a Scottish company) offer is certainty. The Appellants proposal which succeeded after an international competition will indeed restore, preserve and enhance the RHS. The economic advantages will be significant and are indisputable. The Appellants will bring back into use one of Scotland's most important buildings which has had a lengthy history of underuse and vacancy. Public access will be enabled. I submit the quality of the architecture - the design and materials - is such that the development will positively enhance the WHS as well as the RHS itself.

I submit all necessary consents should be forthcoming to bring to an end the vacancy and deterioration of this building. The development will prove that Scotland will encourage bold modern design of the highest quality and will encourage investment and job creation. Consent will send a powerful message far and wide that Scotland really is open for business. I urge that the message that Scotland is open for business is indeed sent out worldwide. That can only be achieved by consenting the Appeals.