

Hendry P (Pauline)

From: Henderson D (David) (DPEA)
Sent: 09 September 2016 09:08
To: McComiskie M (Mandy); Hendry P (Pauline); Sinclair K (Kelly); Reid A (Angela)
Cc: Kerr L (Liz); Ferrie S (Scott); Onn D (Dannie)
Subject: FW: PPA-230-2178 and LBA-230-2076 - New Parliament House

Categories: Action

From: Henderson D (David) (DPEA)
Sent: 09 September 2016 09:06
To: 'FAULDS, Ann <Ann.FAULDS@cms-cmck.com> (Ann.FAULDS@cms-cmck.com)'; 'Craig.Whelton@burnesspaull.com'; 'Peter.Ferguson@harpermacleod.co.uk'; 'Fred Mackintosh (fred.mackintosh@advocates.org.uk)'; 'Louise Cockburn (louise.cockburn@dc2planning.co.uk)'; 'Innes, Colin (Colin.Innes@shepwedd.com)'; 'Carol Nimmo [REDACTED]'; 'Birse, Graham (G.Birse@napier.ac.uk)'; 'Gordon Dewar (Gordon_Dewar@edinburghairport.com)'
Cc: 'McMurray, Mark (Mark.McMurray@cms-cmck.com)'; 'Rod McKenzie (rod@harpermacleod.co.uk)'; 'June McMillan (June_McMillan@edinburghairport.com)'; Kerr L (Liz)
Subject: RE: PPA-230-2178 and LBA-230-2076 - New Parliament House

Dear All

The reporters have carefully considered the appellants' request that the planning permission and listed building consent appeals in this case be sisted.

The appellants explain that they have been in pre-application discussions with the council, aimed at addressing the reasons for refusal. It is said to be their intention, following statutory public consultation, to submit fresh applications to the council imminently. The requested sist of the current appeals is sought in order to enable those amended applications, following due process, to be referred to the Scottish Ministers and then conjoined with the current appeals for determination.

In response, the city council and Historic Environment Scotland, two of the main parties to the forthcoming inquiry, have indicated that they do not object to the proposed sist.

A number of parties to the inquiry have, for broadly similar reasons, objected to the proposed sist. In doing so they refer to DPEA Guidance Note 1: *Requests to sist*, and point out that the circumstances for sist which are set out in that note are not met in this case. They argue that agreeing a sist in this case would prolong uncertainty and that they would suffer prejudice as a result.

The reporters agree that the circumstances for sist envisaged in the guidance note are not met in this case. This guidance is however of general application and they are required to take the particular circumstances of this case into account. While it is correct that an amended application has not as yet been made, the current appeals relate to a significant and high profile development

proposal affecting a listed building of national importance in a sensitive location. A 2-week inquiry is scheduled to consider the proposals; the preparation for and attendance at such an inquiry entails a significant commitment of resources for all parties involved, including a number of public bodies. The appellants state that the amended applications (aimed at addressing the reasons for refusal) are to be submitted, most likely, during or shortly after the course of the inquiry. It seems to the reporters, therefore, that there is a significant risk that the planned inquiry and reporting could be overtaken by events and to that extent become abortive.

The reporters have considered the issue of prejudice to objectors and the public interest more widely. While certain past costs will already have been incurred, a sist relieves objectors of making further preparation for the forthcoming inquiry. In addition, in light of the intentions of the appellant, a degree of uncertainty seems likely to continue for the foreseeable future, even if the sist were refused.

In the event that the amended applications are refused, or are not determined by the council, or are otherwise called-in by Ministers (despite the appellants expectation, as set out in their request to sist), the reporters consider that it would be far more preferable – if both are pursued – that they are considered in the round with the current appeals at a conjoined inquiry.

Either way, the reporters balancing the considerations in play here in the public interest consider that a sist would represent a more efficient deployment of resources for all participants in the inquiry process.

For those reasons the reporters have concluded that it would be in the wider public interest for the current appeals to be sisted. They are mindful though of competing considerations and the desirability of expeditious decision making. This will not therefore be permitted to become an open-ended sist. The appellants will be expected to report on progress on the pre-application stage; on submission of the amended applications; and on progress made on the processing of those applications. If it appears to the reporters that timely progress is not being made they will bring the sist to an end and set fresh dates for the inquiry into the current appeals.

In the meantime and for the avoidance of doubt, the inquiry will not commence as planned on 28 November and the steps involved in the prior disclosure of cases, set out in section 7 of the PEM note, should not be followed for now.

I trust this explains the position.

David Henderson
Head of Performance and Administration
DPEA
Unit 4
Callendar Business Park
Falkirk
FK1 1XR

Tel 01324 696476
Fax 01324 696444



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From: Henderson D (David) (DPEA)
Sent: 06 September 2016 11:27
To: FAULDS, Ann <Ann.FAULDS@cms-cmck.com> (Ann.FAULDS@cms-cmck.com);
Craig.Whelton@burnesspaull.com; Peter.Ferguson@harpermacleod.co.uk; Fred Mackintosh
(fred.mackintosh@advocates.org.uk); Louise Cockburn (louise.cockburn@dc2planning.co.uk); Innes, Colin
(Colin.Innes@shepwedd.com); Carol Nimmo ([REDACTED]); Birse, Graham (G.Birse@napier.ac.uk);
Gordon Dewar (Gordon_Dewar@edinburghairport.com)
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Dear All

Further to the e-mail below I can confirm that the reporters appointed to these appeals will make a decision on the request that these appeals be sisted by the end of this week.

The deadline for submission of inquiry statements has therefore been extended to Tuesday 20 September.

Regards.

David

David Henderson
Head of Performance and Administration
DPEA
Unit 4
Callendar Business Park
Falkirk
FK1 1XR

Tel 01324 696476
Fax 01324 696444

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From: Kerr L (Liz)
Sent: 31 August 2016 10:14
To: FAULDS, Ann <Ann.FAULDS@cms-cmck.com> (Ann.FAULDS@cms-cmck.com);
Craig.Whelton@burnesspaull.com; Peter.Ferguson@harpermacleod.co.uk; Fred Mackintosh
(fred.mackintosh@advocates.org.uk); Louise Cockburn (louise.cockburn@dc2planning.co.uk); Innes, Colin
(Colin.Innes@shepwedd.com); Carol Nimmo ([REDACTED]); Birse, Graham (G.Birse@napier.ac.uk);
Gordon Dewar (Gordon_Dewar@edinburghairport.com)
Cc: McMurray, Mark (Mark.McMurray@cms-cmck.com); Rod McKenzie (rod@harpermacleod.co.uk); June McMillan
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PPA-230-2178 and LBA-230-2076

31 August 2016

Dear All

Thank you for your comments regarding the request from the appellants for a sist in connection with above.

One of the reporters, Mr Ferrie, is on leave this week, so consideration of the request will be deferred until his return. It is hoped to issue a decision on the request to sist in the early part of next week.

Therefore, we are prepared to extend the deadline for submission of Inquiry Statements until Tuesday 13 September 2016.

Kind Regards

Liz

LIZ KERR | Case Officer

Planning & Environmental Appeals Division | 4 The Courtyard | Callendar Business Park | FALKIRK | FK1 1XR

TEL: 01324 696486

