

The Town and Country Planning (Scotland) Act 1997  
The Town and Country Planning (Appeals) (Scotland) Regulations 2013

## INQUIRY STATEMENT

*By*

**The Cockburn Association  
(The Edinburgh Civic Trust)**

*and*

**Edinburgh World Heritage**

*and*

**The New Town and Broughton Community Council**

(collectively “**the Coalition**”)

*in respect of*

the appeals by Duddingston House Properties and Urbanist Hotels (“**the Appellants**”) under Section 47 of the The Town and Country Planning (Scotland) Act 1997, Section 18 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 in and the Town and Country Planning (Appeals) (Scotland) Regulations 2013

*against*

the refusal of Planning Permission and Listed Building Consent for the construction of hotel with restaurant on the site of the former Royal High School, Edinburgh at New Parliament House, 5 - 7 Regent Road, Edinburgh (“**the Appeals**”)

**(Appeal references: PPA-230-2178; LBA-230-2076;  
PPA-230-2213; and LBA-230-2118)**

## **1 Introduction**

### **1.1 The Coalition and its members**

- [1] The Cockburn Association (“**The Cockburn**”), the Edinburgh World Heritage Trust (“**EWH**”) and The New Town and Broughton Community Council (“**NTBCC**”) have come together as the Coalition to represent their views to reporters and Scottish Ministers in respect of the Appeals.
- [2] The Cockburn was founded in 1875. It was named after the late Lord Henry Cockburn (1779-1854) who campaigned to protect and enhance the beauty of Edinburgh. Amongst other things the Cockburn works to promote the conservation and enhancement of Edinburgh’s landscape and historic and architectural heritage and encourage high quality contemporary design for buildings that blend with and enhance their surroundings.
- [3] EWH is a company limited by guarantee with a Board of Directors and is funded by Historic Environment Scotland and the City of Edinburgh Council (“**CEC**”). Its primary purpose is the management, protection and enhancement of The Old and New Towns of Edinburgh World Heritage Site (the “**WHS**”). Historic Scotland and CEC established EWH in 1999 by facilitating the merger of the Edinburgh New

Town Conservation Committee and the Edinburgh Old Town Renewal Trust to promote the management, protection and enhancement of the WHS.

- [4] NTBCC is one of Edinburgh's 44 Community Councils, established under the scheme produced by CEC under Section 51 of the Local Government (Scotland) Act 1973 to represent the views of the community within its area, that being its function under Section 52(2) of the same Act. The area of the Community Council includes Calton Hill and the development site.

## **1.2 The appeals that are to be determined**

- [5] Scottish Ministers have called all four appeals in respect of two schemes ("the appeal proposals"). Chronologically the first pair of appeals (DPEA References: PPA-230-2178 and LBA-230-2076) (the "**2015 Appeals**") relate to an earlier scheme for a 147-room hotel (the "**Scheme 1**"). The appeal into Scheme 1 was lodged on 9 September 2016 and that appeal has now been conjoined into the appeal into the second scheme. The second pair of appeals (DPEA References: PPA-230-2213; and LBA-230-2118) (the "**2017 Appeals**") relate to a proposal for a 127-room hotel (the "**Scheme 2**").
- [6] The First Scheme comprises an application for detailed planning permission (Planning Authority Ref: 15/03989/FUL) (the "**2015 Planning Application**") and an application for listed building consent (Planning Authority Ref: 15/03990/LBC) (the "**2015 Listed Building Consent Application**").
- [7] The Second Scheme comprises an application for detailed planning permission (Planning Authority Ref: 17/00588/FUL) (the "**2017 Planning Application**") and an application for listed building consent (Planning Authority Ref: 17/00587/LBC) (the "**2017 Listed Building Consent Application**").
- [8] As set out in paragraphs [40] to [42] below the Coalition will put forward the case that neither Scheme 1 nor Scheme 2 cannot (by reference to the HESPS tests) can be the minimum achievable to retain project viability.

## **2 Documents**

- [9] As yet there is no list of core documents and the Appellants have set out two separate and overlapping lists of documents in Appendix A and Appendix B of their Outline Inquiry Statement. There is also a list of documents at Appendix 1 of the Planning Authority's Outline Inquiry Statement. This is confusing. No doubt a set of core documents will be produced. In order to aid clarity in reading this Inquiry Statement where a document has been included in Appendix A or Appendix B of the Appellant's Outline Inquiry Statement or Appendix 1 to the Planning Authority's Outline Inquiry Statement it will simply be referred to by its title with no footnote. Documents referred to in this Inquiry Statement that have not been referred to by the Appellants or the Planning Authority in their statements will be lodged by the Coalition.
- [10] Despite assurances sought and seemingly given at the Pre-Examination Meeting Coalition has not been consulted on the terms of the Statements of Agreed Matters on Economic Benefit, Planning History or Planning Policy referred to on page 30 the Planning Authority's Outline Inquiry Statement. We reserve the right to

respond to any such documents should they be produced.

### **3 The statutory background**

[11] In determining both appeals the following legislation will require to be applied by the reporters and by Scottish Ministers:

- Section 25 of the Town and Country Planning (Scotland) Act 1997
- Section 14 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997
- Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997
- Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997

[12] The following planning policies or guidance documents are directly relevant to both appeals:

- National Planning Framework 3, July 2014
- Scottish Planning Policy (SPP)- 2014; in particular the policies 141, 142, 143 and 147.
- SESplan - Strategic Development Plan - June 2013
- New Town Conservation Area Character Appraisal, June 2005
- City Centre Princes Street Development Framework - 4 October 2007; in particular the reference to the 'Unique Selling Point' of Block 10 at page 50
- The Princes Street Block 10 Development Brief
- Historic Environment Scotland Policy Statement ("HESPS"), Historic Environment Scotland - June 2016; in particular: key Principles 1.9, 1.10, in respect of listed buildings in particular paragraphs 3.37 to 3.51 and in respect of conservation area consent in particular paragraphs 3.56 to 3.58
- Managing Change in the Historic Environment - Demolition, Historic Scotland, October 2010
- Managing Change in the Historic Environment - Extensions, Historic Scotland, October 2010
- Managing change in the Historic Environment - Setting, Historic Scotland, October 2010

[13] The following planning policies or guidance documents are directly relevant to the 2015 Appeals:

- Edinburgh City Local Plan - January 2010; in particular the Core Aims of the Local Plan and policies ENV 1, 2, 3, 4, 6, 7, 11 and DES 1, 10, 11.

- [14] The following planning policies or guidance documents are directly relevant to the 2017 Appeals:
- The Edinburgh Local Development Plan, November 2016; in particular policies ENV 1, 2, 3, 4, 5, 6, 7, 11, DES 1, 3, 4 and 11, DEL 2 and EMP10
  - Managing Change in the Historic Environment - World Heritage, Historic Scotland, September 2016
- [15] In respect of the designation of the World Heritage Cite the following policies and guidelines are relevant to both appeals:
- Nomination Document, Old and New Towns of Edinburgh World Heritage Site, 1994
  - Advisory Body Evaluation, 728 ICOMOS 860
  - UNESCO World Heritage Centre Decision: 32 COM 8B.100: Revision of Statements of Significance and Statement of Outstanding Universal Value - Old and New Towns of Edinburgh (UK)
  - The Old and New Towns of Edinburgh World Heritage Site Management Plan 2011-2016
  - Old and New Towns of Edinburgh World Heritage Site Management Plan, July 2005
  - Operational Guidelines for the Implementation of the World Heritage Convention, UNESCO
  - Guidance on Heritage Impact Assessments for Cultural World Heritage Properties, ICOMOS, January 2011
  - Vienna Memorandum on “World Heritage and Contemporary Architecture – Managing the Historic Urban Landscape”, UNSECO, May 2005
  - The Nara Document On Authenticity, ICOMOS, 1994
  - Letter from Director, UNSECO World Heritage Centre to UK Department of Media and Sport including the November 2015 ICOMOS Technical Review, Edinburgh

#### **4 An overview of the Coalition’s Case**

- [16] All three organisations maintain their objection to both the Scheme 1 and the Scheme 2 as set out in the letters of objection lodged by each of the Cockburn, EWH and NTBCC in respect of the various applications and their Further Submissions lodged with DPEA on 28 November 2017.
- [17] The Coalition remains of the view that the Scheme 2 does not address its concerns about the Scheme 1 and do not believe that this site is appropriate for a hotel of the scale proposed in either scheme. In addition, the Coalition is concerned that the granting of planning permission, conservation area consent and listed building

consent for either scheme will damage the setting of the Hamilton Building, damage the character and amenity of the conservation area and will have a strongly negative impact on the WHS; which has been recognised by Scottish Ministers as an asset of considerable national importance. The Coalition remain of the view that it cannot be said that the architectural merits of either scheme are such as to over-ride the protections given to the listing buildings, the conversation areas, the landscape area and the World Heritage Site.

[18] For avoidance of doubt the Coalition continues to maintain its application for the expenses of the 2015 Appeals as set out in counsel's note on behalf of the Coalition and lodged with DPEA on 29 December 2016. The Coalition will return to this issue at the time of submissions.

## **5 Inquiry Session 1**

[19] In Procedure Notice No 2 the reporters have specified what topics should be covered at Inquiry Session 1. They have directed that evidence in this inquiry session should be marshalled under five chapters. In addition, they have directed that they do not wish to have evidence on two further matters.

[20] In its evidence to Inquiry Session 1 the Coalition will follow the five-chapter headings set out the reporters in Procedure Notice 2. The Coalition welcomed the decision of the reporters in Procedure Notice 2 that they did not wish evidence on the development brief for the site and the selection of the preferred developer or the public realm improvements other than as relevant to the five chapters. Evidence about the selection process for the preferred developer and the selection process itself is irrelevant to the assessment of the 2015 Appeals and 2017 Appeals that the reporters and Scottish Ministers will in due course have to make. In the event that the Reporters permit the Appellants to lead evidence of the selection process for the preferred developer and in particular matters covered by paragraphs [7] and [8] of the Appeal Statement in respect of Scheme 2 (other than an assessment against the Princes Street Block 10 Development Brief) and paragraph [6] of the Appeal Statement in respect of Scheme 1 the Coalition will lead the evidence set out in Appendix 1 of this Inquiry Statement and refer to the documents listed therein.

### **5.1 Specified Matters**

[21] The specified matters which the coalition proposes to put forward to in Inquiry Session 1 are (divided up by Chapter heading):

#### ***Chapter 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***

[22] The Operational Guidelines for the Implementation of the World Heritage Convention have been laid down by the United Nations Educational, Scientific and Cultural Organisation (“UNESCO”). They state that Outstanding Universal Value (“OUV”) means cultural and/or natural significance which is so exceptional as to transcend national boundaries and to be of common importance for present and future generations of all humanity. The Statement of OUV is the key reference for the future effective protection and management of the WHS. The relevant

documents that set out the particular OUV of the WHS are listed at paragraph [15] above.

[23] The Scottish Planning Policy (SPP)- 2014 is clear at para. 147 that:

*147. World Heritage Sites are of international importance. Where a development proposal has the potential to affect a World Heritage Site, or its setting, the planning authority must protect and preserve its Outstanding Universal Value.*

[24] The development site comprises the former buildings of the Royal High School. The former school buildings are category 'A' listed (LB Ref LB27987, 19 April 1966). The development site forms part of Calton Hill and falls within the WHS. It is located in the City Centre and in the New Town Conservation Area. The site is included within the Princes Street Development Brief Block 10. The site directly adjoins the Calton Hill Site of Special Scientific Interest (SSSI) and Special Landscape Area. Directly to the south of the development site (on the opposite side of Regent Road) is the Robert Burns monument, designed by Hamilton. It is category A listed (LB ref 27801, 19 April 1966).

[25] The Royal High School is the most important Greek revival buildings in the WHS, one of the most important classical buildings in the city and one of the most important Greek revival buildings in the world. The building is an integral part of the classical nature of Calton Hill, along with the other buildings embodying the concept of the Athens of the North and contrasting with the gothic Edinburgh Castle. This grade 'A' listed building and the surrounding other listed buildings are of local, national and international importance and the setting is an important part of the Outstanding Universal Value ("OUV") of the WHS.

[26] The Royal High School forms a group of category A listed buildings sitting within the landscape of Calton Hill. In addition to the Royal High School Buildings and the Robert Burns Monument these include: The National Monument (LB Ref LB27820, 19 April 1966), Nelson's Monument (LB ref 27823, 19 April 1966), The Dugald Stewart Monument (LB ref 27835, 19 April 1966), Playfair's Monument (LB ref 27826, 19 April 1966). and The City Observatory (LB ref 27603, 19 April 1966).

[27] That Calton Hill as whole represents the flowering of the Greek Revival in Scotland, deliberately focused to create a classical acropolis, as opposed to the gothic Edinburgh Castle and that the existing architecture demands an approach that is at once respectful of the existing volumes and massing, and robust and meaningful. The setting of the Royal High School represents a significant part of the cultural and natural significance of the OUV of the WHS.

[28] That the Royal High School is deliberately placed to be commanding in long views. It is directly aligned with Queen's Drive in Holyrood Park, and the building forms a focal point in all views towards Calton Hill from Holyrood Park. These views are vital to understanding the architecture and meaning of the school complex. In contrast to this, in the approach along Waterloo Place and Regent Road, the complex is not immediately visible: instead the views are aligned so that those approaching from both the east and west have little idea of what awaits them. The more important approach is that from the heart of the city along Waterloo Place, itself a set piece classical composition, where the view invokes the feel of *rus in*

*urbe*, an Enlightenment ideal that is at the heart of urban planning in the 19th and 19th century aspects of the WHS, in the formal layout of the New Towns, putting into stone the artistic ideals of the likes of Poussin. Even when rounding the corner on to Regent Road, the eye is deliberately drawn to Arthur's Seat and the Salisbury Crags, with the greenery of Calton Hill forming a stark contrast with the powerful façade of St Andrews House.

- [29] That the subtle nature of the approaches to the Royal High School from the east and west, and the importance of views from the south are dictated by the hierarchy of buildings within the complex. The southern orientation of the Hamilton Building and its pavilions dominates, and rightly so. The gatehouse to the west is a reverential full-stop to the complex, while being a thoughtful little composition in its own right. The single storey building next to this respects both its neighbours and topography of the site, without drawing attention to itself. To the east of the main building's site there are two buildings, a single storey to the south and larger building to the north. The single storey building hides in views behind a screen, again deferring to the main building, while the building to the north pays its respects in architectural terms and is at a safe distance in views.
- [30] That views across the WHS to the Royal High School are formal and important to understanding the architecture and meaning of both the building and Calton Hill, approaches from east and west summarise the essence of Enlightenment urban planning and that demolition and replacement of buildings in the complex needs to be fully justified and very carefully considered in terms of quality, and relationship to the main building in views close and far.
- [31] We will make a critique of both Heritage Statements prepared by Andrew PK Wright and in particular addressing:
- a) His analysis, understanding and assessment of the exceptional significance of the Royal High School as a globally important Greek Revival Building that forms an integral part of Edinburgh's Acropolis with the other structures of Calton Hill and the landscape in which they are placed,
  - b) His analysis, understanding and assessment of levels of intervention that are appropriate for the Royal High School and the form in which planned change may be acceptable within the context of introducing a new use for the site,
  - c) How the analysis and assessment within the Heritage Statements plays only lip service to the ICOMOS Guidelines and fails to properly apply those guidelines along with the Nara Document On Authenticity and the Vienna Memorandum, the Nomination Document, Advisory Body Evaluation and Statements of Significance and Statement of Outstanding Universal Value of the World Heritage Site.

## ***Chapter 2 – Architectural design quality;***

- [32] That given the setting of the new building flair and subtlety in new design are essential, but that in any event if the proposed buildings in both schemes were of the highest design standard (which is not accepted) their scale and massing are such that they would cause the damaging 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 all set out in respect of Chapter 3 for this inquiry session.

- [33] That the documents produced by the Appellants purporting to cite approval for both schemes from Architecture and Design Scotland (“A+DS”) do not show unconditional support and specifically exclude assessment of the wider planning policy context of these schemes; in particular the impact of the designs on the World Heritage Site and the listed buildings. Reference will be made to A+DS letters of 3 April 2017 and 9 September 2015 included in the Appellants’ documents.

**Chapter 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**

- [34] We will lead evidence as to why both schemes (and in particularly the flanking wings) will cause substantial damage the character and setting of listed building itself; on the setting of other listed buildings; on the conservation area; on the WHS; on the designed landscape and on other heritage receptors. This will be based primarily on material already lodged by the Appellants but including a number of historic images not referenced within either Heritage Statement.
- [35] We will show that whatever exercise the Appellants were conducting when designing both schemes it was not a “*conservation led strategy*” as there is more to conservation of Category A listed buildings in a World Heritage Site than conservation of the fabric of particular buildings. We will lead evidence how in many cases, and this is one, the setting of a listed building is an essential part of its character (HESPS, 3,30) and how both schemes entirely destroy the setting of the Hamilton Building and in doing so damage its character.
- [36] We will show how Scheme 2 is not at a substantially reduced scale when compared to Scheme 1. In particular when compared to Scheme 1 the large western hotel block in Scheme 2 continues to damage the setting of the Hamilton Building both when seen from distant viewpoints and when appreciated by persons approaching the building from the New Town along Waterloo Place.
- [37] We will analyse the documents already lodged by the Appellants’ to demonstrate that there is a fundamental inconsistency in their stated reasons as how any reduction in size or scale from Scheme 1 to Scheme 2 was justified in order to show that the policy assertions of the Appellant’s about economic justification of either scheme should not be relied upon. Reference is made to the approach set out paragraphs [33] to [38] of the Further Submissions lodged with DPEA on 28 November 2017.
- [38] We will critique the proposal to make all deliveries to the hotel in the Scheme 2 from the street through the small existing door onto Regent Road and in particular will raise the issue of what space has been allowed on the road for vehicles that are collecting and delivering items from the hotel (such as food, drink, laundry and waste) and what the visual impact will be of such vehicles parked outside that door



will be when compared to other large hotels in Edinburgh.

[39] We will challenge the assurances of the Appellants about the nature of the hotel that they plan to open and demonstrate that they are of limited value in that:

- a) A hotel is not a public building as access depends on management policies, which can change and whilst access could be made subject to some conditions, in reality it would be restricted due to the very nature of an exclusive hotel catering for people who would demand not only quality but also security and privacy.
- b) The Appellant's own documentation supports the conclusion that there no way that the grant of planning permission for either scheme can guarantee that that would result in a "6 star" arts and culture hotel run by Rosewood Hotels & Resorts ("**Rosewood**"). The Appellants are not Rosewood. Rosewood was appointed by the Appellants as operators and do not control the Appellants. Both schemes require to be justified on the basis that what will be built is a hotel and not a specific sort or class of hotel.

**Chapter 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)**

[40] We anticipate that the Royal High School Preservation Trust ("**RHSPT**") will make a robust defence of those aspects of their consented scheme that are to be considered within this Chapter. However, we intend to lead evidence as to how in respect of the both Scheme 1 and Scheme 2 the tests to be applied to applications for listed building consent and conservation area consent set out in the HES Policy Statement ("**HESPS**") present an insurmountable obstacle as follows:

- a) There is (at paragraph 3.38) a presumption against demolition or other works that adversely affect the special interest of a listed building or its setting,
- b) Both Scheme 1 and Scheme 2 involve alteration or adaptation which will have an adverse or significantly adverse impact on the special interest of the Hamilton Building, The Robert Burns Monument and the other listed buildings on Calton Hill (as specified in paragraphs [24] to [26]),
- c) HESPS paragraph 3.47 creates a test which, when read with the balance of the document, the Appellants cannot meet because the RHSPT proposals would have less impact on the special interest of these buildings and as those proposals exist, are consented and have funding they are options which would ensure a continuing beneficial use,
- d) The Appellants' Economic Impact Analysis and Alternative Sites Analysis should not satisfy the reporters or Scottish Ministers that there are significant benefits for economic growth or the wider community which justify a departure from the presumption set out in paragraph 3.38,
- e) The demolition of the listed buildings that are to be demolished is not essential

to deliver significant benefits to economic growth or the wider community and the appellants' Economic Impact Analysis and Alternative Sites Analysis should not satisfy the reporters or Scottish Ministers of that fact, and

- f) The repair of the Gatehouse is economically viable within a scheme that has less impact on the setting and features of special architectural or historic interest of the Hamilton Building and this is demonstrated by its retention in the RHSPT proposals.

[41] How in respect of the Scheme 1 HESPS tests present a further insurmountable obstacle in that the Scheme 2 exists and whilst it is not substantially reduced in scale (see paragraph [36] above) it is lower in height and therefore must be taken to have a lesser (but still unacceptable) impact on the special interest of the listed buildings.

[42] How in respect of conservation area consent a purposive reading of HESPS paragraphs 3.56 to 3.58 are such that the fact that there is now an alternative scheme in the form of the RHSPT proposals that would have less impact on the character and amenity of the conservation area requires that conservation area consent be refused. Reference will be made to Scottish Planning Policy 143 and 147.

**Chapter 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**

[43] That refusal of planning permission and listed building consent for either scheme is consistent with local and national planning policies and the granting of permission for either scheme would be deeply inconsistent with those policies in that:

- (a) The Local Plan and Development Plan are balanced documents that seek also to protect and enhance the City's natural and cultural heritage, whilst promoting sensitive development, which supports communities and their aspirations and concerns. These plans recognise that the historic townscape and heritage of the city, as a World Heritage Site is a fundamental asset to the City, supporting its economic ambitions, not thwarting them.
- (b) That both schemes are contrary to the development plan and in particular policies ENV 1, 3, 5, 6 and 7 and refusal is consistent with the proper application of design policies DES 3, 4 and 11.
- (c) That both schemes will damage the Hamilton Building and its setting and features of special architectural or historic interest which it possesses.
- (d) That both schemes will damage the setting of the Robert Burns monument and the other listed buildings on Calton Hill (as specified in paragraph [19] above) and the features of special architectural or historic interest which they possess.
- (e) That both schemes will damage the character or appearance of the New Town Conservation Area.
- (f) That both schemes are directly contrary to the spirit, intention and terms of the City Centre Princes Street Development Framework and the Princes Street

Block 10 Development Brief particularly in respect of the scale, planning and design of the proposed western wing in both schemes. Reference will be made to Development Principles 1 and 3, paragraph 4.2 and figures 3 and 5 of the Brief.

- [44] That the Appellants' assertion that wider economic benefits to the community override the protection otherwise given to Listed Buildings has no basis in planning policy, reduces to a meaningless sham the presumption set out formerly at HESPS para 3.38 and would also would render both SPP 141 and SPP 142 substantially meaningless.
- [45] How, in light of the history of the designation of the WHS and the respect accorded to World Heritage Sites and OUV by national planning policy and guidance either development plan has to read in a manner that gives priority to the protection of the OUV and in particular why local plan policy ENV1 is not something to be set aside in favour of economic development.
- [46] That should either scheme be granted permission there is a real risk that ICOMOS and UNESCO World Heritage Committee would conclude that that the local system of protection has failed the World Heritage Site, and badly so. This would result in a response by the World Heritage Committee comparable to the response to developments in Liverpool at the 41st Session of the Committee in Krakow, Poland on 2-12 July 2017<sup>1</sup> which involved an expression of deep concern by the committee at the action of the State Party in respect of the developments at Liverpool Riverside and the retention of Liverpool on the List of World Heritage in Danger. Such a step would represent a national failure for Scotland and Edinburgh and be deeply embarrassing to Scottish Ministers and to the City of Edinburgh Council given the commitments made in Scottish Planning Policy 147 and other national and local planning policies.
- [47] That any difference in treatment by the planning authority between Scheme 1 and Scheme 2 can be explained by the change in the composition of the Planning Committee between the two decisions and the growing public outrage and concern in Edinburgh at the damage that the appeal proposals will cause to the OUV of the WHS, the setting and features of special architectural or historic interest of the Royal High School itself and the character and amenity of the New Town Conservation Area.

## **5.2 Witnesses to be led in Inquiry Session 1**

- [48] The Coalition will lead four witnesses in Inquiry Session 1. These are
1. Terry Levinthal
  2. Adam Wilkinson
  3. Richard Price
  4. Dr Kirsten Carter McKee

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<sup>1</sup> UNSECO Document WHC/17/41.COM/7A, Item 7A of the Provisional Agenda: State of conservation of the properties inscribed on the List of World Heritage in Danger at page 43

- [49] **Terry Levinthal** is the Director of the Cockburn Association. From 2010 to 2016 he was Director of Conservation Services & Projects at The National Trust for Scotland. From 2002 to 2010 he was a Board member (Ministerial appointee) of the Loch Lomond and the Trossachs National Park Authority and Chairman of the authority's Planning & Access Committee. From 1999 to 2010 he was Director of the Scottish Civic Trust. He holds a Postgraduate Diploma in Urban Design from Heriot Watt University/Edinburgh College of Art and a Bachelor of Environmental Studies (Honours) from University of Waterloo, Canada and is a Member of the Institute of Historic Building Conservation, Fellow of the Society of Antiquities of Scotland, Scottish Ecological Design Association.
- [50] Mr Levinthal will speak to the matters specified in paragraphs 32 to 37, 39 to 45 and 47
- [51] **Adam Wilkinson** has been Director of EWH since April 2008. The particular role of EWH in conserving, enhancing and promoting the World Heritage Site is set out at paragraph [3] above. Adam is an acknowledged expert in the sustainable management of historic cities. He is responsible for providing executive leadership and overall management of EWH, its staff and other organisational and financial resources. Over the last ten years he has worked with the team and board to transform EWH from a small group operating solely within Edinburgh's World Heritage Site to an outward looking group eager to share knowledge and build capacity. He brings a broad knowledge of UK conservation policy and architectural history, and an understanding of the international preservation scene through his previous roles as Secretary of SAVE Britain's Heritage. Prior to this he worked in Paris for UNESCO's Division of Cultural Heritage. He sits on the Council of Europa Nostra, the pan-European heritage federation and has non-executive roles with a number of UK based heritage NGOs. Adam holds an MA in Medieval History and Russian Language and an MSc in Historic Conservation.
- [52] Mr Wilkinson will speak to the matters specified in paragraphs 22 to 35 and 43 to 47 above.
- [53] **Richard Price** has lived in the New Town since 2000. He joined the New Town & Broughton Community Council in 2013 and was elected to the position of Planning Sub-committee Convenor. He has been actively involved with the various planning applications and pre-consultations relating to the Royal High School since 2013. In 2016, he also assumed the Vice Chair position on the community council. The community council Planning Sub-committee has experienced members who have worked for Edinburgh Council Planning Dept. and other planning organisations across Scotland. He studied Chemical Engineering at Imperial College and on graduating with a B.Sc. (Hons) in 1978, joined ExxonMobil, the world's largest public oil company. He has worked in the petrochemical industry for ExxonMobil in various roles within the UK, Europe and the U.S. He has been responsible for many multi-million-pound projects in the U.K. latterly in both technical management and business Interfaces roles, working with other multinational companies involved with petrochemical feedstock supplies to the U.K. Since retiring in 2013, he has been actively involved in providing submissions for the community council on behalf of local residents on the many Edinburgh city centre projects over the last 5 years, successfully liaising with many developers in pre-

consultations, and providing comprehensive representations on many applications representing the views of the wider community. He is a member of the Cockburn Association and Edinburgh World Heritage.

[54] Mr Price will speak to the matters specified in paragraphs 38, 39 44 and 47 above.

[55] **Dr. Kirsten Carter McKee** is a Research and Teaching Fellow in Architectural History and Conservation at the University of Edinburgh and an independent researcher and curator. She was formerly a lecturer in architectural history at the Mackintosh School of Architecture at Glasgow School of Art. Her PhD was an architectural study of Edinburgh's Calton Hill, a major part of Edinburgh's World Heritage site and was funded by the Arts and Humanities Research Council and UNESCO with support from EWH. Her book "*Calton Hill and the plans for Edinburgh's Third New Town*" is due to be published by Birlinn in June 2018.

[56] Dr Carter McKee will speak to matters specified in paragraphs 24 to 31 above.

[57] All four witnesses for Session 1 are based in Edinburgh.

## **6 Inquiry Session 2**

[58] In Procedure Notice No 2 the reporters have specified what topics should be covered at Inquiry Session 2. They have directed that evidence in each inquiry session should be marshalled under four chapters. In addition, they have directed that they do not wish to have evidence in respect of the economic impact of the RHSTP scheme.

### **6.1 Specified Matters**

[59] The specified matters which the coalition proposes to put forward to in Inquiry Session 2 in respect of the net economic benefits of the appeal proposals are:

#### **Chapter 1 - Assessment of the impacts and net economic benefits of the schemes, including job creation, economic capacity and contribution to sustainable economic growth**

[60] In furtherance of its duty to conserve, enhance and promote the World Heritage Site EWH appointed Dr Spiros Batas to lead a team to measure the economic value of the WHS. The Coalition will lead evidence of the results of this work in this session as any calculation of the net economic benefit of the proposed development must include an assessment of the economic value of the OUV of the WHS so that the reporters and Scottish Ministers can balance any benefits from the schemes against the damage that will be caused to the WHS by either scheme or the economic cost of the loss of world heritage site status to the city and to Scotland.

[61] Scotland's Economic Strategy - March 2015 at page 14 makes specific reference to the economic advantages that flow from the fact that Scotland was then home to five UNESCO World Heritage Sites; of which one is the Old and New Towns of Edinburgh World Heritage Site. The Scottish Tourism Strategy -Tourism Scotland 2020 at page 15 make specific reference to how heritage provides authentic experiences which are an asset to which appeal of Scotland's mainland and islands can be largely attributed. At a local level in Edinburgh Tourism Strategy -

EDINBURGH 2020 identifies (page 20) the “World Heritage City” as a key promotional theme and sets out (page 21) the first of five Strategic Priorities for Action as “World Class City Management” with a specific reference as to how:

*“The outstanding natural and built heritage of the city centre provides a superb ‘theatre’ in which the majority of the city’s tourism activities take place. In addition to its inherent value for tourism, the fact that it is a UNESCO designated World Heritage Site (WHS) gives the city a global status of huge worth. These are outstanding competitive advantages for the city that must be both celebrated and protected.”*

- [62] Any assessment of the benefits of the appeal proposals to tourism and the city economy must recognise and take account of the damage that either scheme will cause to OUV.
- [63] The Coalition will put forward that there are serious weaknesses in the work of Oxford Economics instructed by the Appellant’s in that the authors of that report have:
- (a) Not used the most recent available data about the size of the Scottish and Edinburgh economy and local tax regime,
  - (b) Failed to follow official guidance on appraisal and evaluation outlines in HM Treasury’s Green Book,
  - (c) Made little or no attempt to allow for displacement effects where activities of the proposed hotel might displace existing economic activity from competing hotels,
  - (d) Not attempted to estimate impacts in net present value terms by discounting future impacts to represent real time adjusted values,
  - (e) Not attempted to value the status quo and the value of preserving cultural heritage, and
  - (f) Have accepted without question that the hotel will be a “6 star” hotel when there planning permission sought is not restricted to the provision of a hotel of that type or standard.
- [64] In respect of the economic value of the WHS the Coalition will put forward the following:
- a) How the reports listed at paragraph [74] a) to c) came to be produced, what the reports say about the value of the WHS, how that value can be used by public policy makers, how the methodology that was used is justified and used by respected decision makers in the United Kingdom and across the world.
  - b) That the majority of residents and visitors to Edinburgh are willing to support the conservation, maintenance and restoration of the WHS, and attach an economic value to it of between £1.2 - £1.4 billion,
  - c) That although businesses are less likely to state a monetary value, they were more likely to commit higher amounts, on average, than residents and visitors,
  - d) That commitment to the WHS was demonstrated across the socio-economic

spectrum

- e) That the WHS is seen as both as a public good that should leave a long-term legacy for future generations, and as part of a strategy to support the development of local communities.
- f) The use to which the conclusions of the reports may be put to conduct any balancing exercise where the net economic benefits from a 127 or 147 bedroom hotel are set against the risk that the scheme will damage either the World Heritage Site and even its designation by UNSECO.

## **Chapter 2- whether those impacts could be achieved in another way or on another site**

[65] The Coalition does not intend to lead witnesses on this topic in this Session, but during Inquiry Session 1 Terry Levinthal will address the issue of whether it is necessary for a hotel to be located in such a sensitive location to create jobs and provide accommodation – even at five star level. Reference is made to the issues raised at paragraph [39] above.

## **Chapter 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**

[66] The Coalition will lead evidence as to how the cost of damaging the WHS would have an impact outside the area around the development site and the WHS as the loss of Outstanding Universal Value would have an effect on the Scottish and city economy out of all proportion to the benefits of either scheme.

## **Chapter 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**

[67] Issues about the relevant policies and guidance as to the method for assessing economic impact of both schemes will be covered as set out in paragraphs [63] and [64].

### **6.2 Witnesses to be led in Inquiry Session 2**

[68] The Coalition will lead one witness in Inquiry Session 2. That witness is Dr Spiros Batas.

[69] **Dr Spiros Batas** is the Lecturer in International Business at the Department of International Business and Economics and MBA International Business and MA in International Business programme leader, University of Greenwich, London. He holds his PhD in International Business and Strategy from the University of Edinburgh and was examined by Professor Jan Johanson of Uppsala University. He had previously gained an MSc in International Business and Emerging Markets from the University of Edinburgh. He also obtained an MSc by Research in Labour Economics, Human Resource Management and Innovation from the University of

Aix-Marseille and CNRS. He also holds a BSc in Economics from the University of Piraeus and a BSc in Business Administration. Prior to arriving at Greenwich in 2017 he previously worked at the University of Northampton as a Lecturer in Strategy and International Business where he led two courses and acted as a Deputy Programme Leader. Moreover, he has been leading a project initiated by Edinburgh World Heritage (EWH) which examines the economic valuation of Edinburgh's World Heritage Site.

[70] Dr Batas will require to travel from London to Edinburgh to give evidence in the inquiry session.

## **7 Hearing Session on Conditions**

[71] The Coalition does not intend to lead evidence at the Hearing Session on Conditions. It will ensure that it observes the session as it intends to make submissions (as anticipated in paragraph [39] above) that substantial aspects of the appellants' offer for a "six star", "arts hotel" and any reference to the quality of the offering made by Rosewood at other sites is unenforceable in terms of conditions and therefore should be ignored by the reporters and Scottish Ministers.

## **8 Documents to be referred to by the Coalition**

[72] Most of the documents that the Coalition intends to refer to have already been lodged by the appellants or are national or local planning policies referred to in paragraphs [11] to [14] above. It is assumed that these will be made available by the appellants or the planning authority within the Core Documents.

[73] The various World Heritage designation and policy documents listed in paragraph [15] should be Core Documents and if neither the appellants or the planning authority the Coalition add them to the Core Documents the Coalition will lodge them with the DPEA.

[74] The undernoted technical documents will be lodged with the reports supplied to relevant parties by 25 May 2018 as required by the reporters:

- a) *Scoping Report EWH Economic Impact on the City of Edinburgh*, EWH 2011
- b) *The Economic Value of the World Heritage Site*, EWH, 2016
- c) *The Economic Value of the Old & New Towns of Edinburgh World Heritage Site*, EWH, 2016
- d) Montenegro, A.B., Huaquin, M.N. and Herrero Prieto, L.C., 2009. *The valuation of historical sites: a case study of Valdivia, Chile*. *Journal of Environmental Planning and Management*, 52(1), pp.97-109.
- e) Provins, A., Pearce, D., Ozdemiroglu, E., Mourato, M., Jones, S. 2008. "Valuation of the historic environment: The scope for using economic valuation evidence in the appraisal of heritage-related projects", *Progress in Planning*, 69, pp.131-175.
- f) Tuan, T.H. and Navrud, S., 2008. *Capturing the benefits of preserving cultural heritage*. *Journal of cultural heritage*, 9(3), pp.326-337.



- g) *The Costs and Benefits of World Heritage Site Status in the UK - Full Report*, Prepared for the Department for Culture, Media and Sport, Cadw and Historic Scotland by PricewaterhouseCoopers LLP, December 2007
- h) Pagiola, S. 1996. “*Economic Analysis of Investments in Cultural Heritage: Insights from the Environmental Economics*”, Environment Department World Bank, pp.1-13.
- i) Dr. Kirsten Carter McKee, *The Genius Loci of the Athens of the North: The Cultural Significance of Edinburgh’s Calton Hill*, PhD, The University of Edinburgh, 2013. [www.era.lib.ed.ac.uk/handle/1842/15833](http://www.era.lib.ed.ac.uk/handle/1842/15833)
- j) UNSECO Document WHC/17/41.COM/7A, Item 7A of the Provisional Agenda: State of conservation of the properties inscribed on the List of World Heritage in Danger
- k) The Former Royal High School Conservation Plan, September 2004, prepared for the Scottish National Photography Centre.
- l) The Calton Hill Conservation Plan, August 1999, prepared for the City of Edinburgh Council.

## Appendix 1

*In the event that the Reporters permit the appellants to lead evidence of the selection process for the preferred developer and in particular matters covered by paragraphs [7] and [8] of the Appeal Statement in respect of Scheme 2 (other than as assessment against the Princes Street Block 10 Development Brief) and paragraph [6] of the Appeal Statement in respect of Scheme 1 the Coalition will lead the evidence set out in Appendix 1 of this Inquiry Statement and refer to the documents set out here.*

- [1] That the tendering decision by CEC to select the Appellants as preferred developer is not a relevant planning consideration and does not give the Appellants any entitlement to planning permission, listed building or conservation area consent or create any presumption to that effect.
- [2] That the tendering process was not a planning process, but one conducted by CEC as part of their procurement exercise to dispose of the site.
- [3] That the tendering process was advertised in an ITT notice, which specifically specified that any solution should be in accordance with the approved Development Brief - Princes Street Block 10.
- [4] That the late Professor Charles McKean was not appointed to the CEC Awarding Panel by EWH nor was his involvement in that panel on behalf of or authorised or approved by EWH.
- [5] That the Coalition will lodge Professor McKean's copy of the proposal prepared by the Appellants entitled "*Former Royal High School, Edinburgh; Inspiring the Capital – Edinburgh Arts Hotel*" that was before the CEC Awarding Panel which he gave to Adam Wilkinson of EWH before his death on the instruction that it "may prove useful" upon which he had written "*Too close: too high*".
- [6] That the Coalition will lodge copies of emails from Adam Wilkinson to Bruce Hare at other members of the Appellant's professional team repeatedly setting out EWH's concerns about the amount of development proposed for the site and how it will have a negative effect on OUV.
- [7] That the Coalition will put into context the advice actually given by EWH to the planning authority, the appellants and in particular Bruce Hare and Gareth Hoskins and how that advice and in particular the terms of the letter from EWH to the Planning Authority dated 1 June 2010<sup>2</sup> related to a proposal that was substantially smaller in scale and set further back into Calton Hill than the appeal proposals.
- [8] That given the great priority given to the protection of the Outstanding Universal Value of the World Heritage Site and of Category A Listed Buildings in both local and national plans, policy and guidance it should have come as no surprise to the Appellants that both schemes have attracted substantial (and growing) public opposition and objections and have had permission refused by the planning authority.
- [9] That at the time CEC made the tendering decision the current detailed and funded proposals by the Royal High School Preservation Trust ("RHSPT") did not exist. They

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<sup>2</sup> Contained in the Appendix to the Design and Access Statement, Developer's Documents R7e

do now. The existence of the RHSPT proposals is a material consideration that the reporters, Scottish Ministers and the Planning Authority are obliged to consider and to give considerable weight to.