

12 November 2014

Mr Nick Baker
C/o Baker Garden Architects Ltd
PO Box 203
Dunedin 9054

Dear Mr Baker

RE: RESOURCE CONSENT APPLICATION

LUC-2014-203
265 PRINCES STREET
DUNEDIN
(JOHN WICKLIFFE HOUSE)

The above application to paint John Wickliffe House, located within a Townscape Precinct within the Dunedin District Plan was processed on a notified basis in accordance with Section 95 of the Resource Management Act 1991. The Consent Hearings Committee comprising Councillors KATE WILSON (Chair), DAVID BENSON-POPE and AARON HAWKINS, heard and considered the application at a hearing on 15 August 2014, which was re-convened on 23 October 2014.

At the end of the public part of the hearing, the Committee, in accordance with Section 48(1) of the Local Government Official Information and Meetings Act 1987, resolved to exclude the public.

Following the conclusion of the hearing on 15 August 2014, a site visit was undertaken by the Hearings Committee.

The Committee has **declined** consent to the application on 23 October 2014. The full text of this decision commences below.

The Hearing and Appearances

The applicant was represented by:
MR PHIL PAGE (Legal Counsel)
MR NICK BAKER (Baker Garden Architects)
MR JOHN HEENAN (Structural Engineer from Beca Consulting)
And three representatives from TITUS THE WATERPROOFING COMPANY

Council staff attending were:

SOPHIE LORD (Processing Planner), PETER CHRISTOS (Urban Design), JO TISZAVARI (Governance Support Officer), and PHIL MARSHALL (Advisor to the Committee)

Submitters in attendance included:

MR STEPHEN MACKNIGHT (Structural Engineer)
DR DAVID MURRAY (Professional Archivist and Historian)
MS ELIZABETH KERR (Resident of Dunedin)

MR RUSSELL LUND (Construction Manager – present at the re-convened hearing on 23 October 2014 supporting the submission of Ms Elizabeth Kerr. For clarity, Mr Lund does not have appeal rights).

MR MICHAEL FINLAY (Professional Practice Fellow, University of Otago)

Procedural Issues

No procedural issues were raised at the Hearing on 15 August 2014.

With respect to the re-convened Hearing on 23 October 2014, a Minute had been circulated from the Hearings Committee to all parties directing that the re-convened Hearing could only address matters related to the use of clear coatings in treating the building panels.

This minute resulted from a memorandum to the Hearings Committee from Counsel for the Applicant, Mr Phil Page and dated 13 October 2014, critical of the way Mr Phil Marshall had requested further information for the Committee from Salmond Reed Architects, acting on behalf of Council.

Principal Issues of Contention

The principal issues of contention were as follows:

- Whether or not John Wickliffe House should be painted as per the application.
- The degree to which repairs of the existing concrete panels could be made to blend with the unrepaired portions of the panels.
- Whether or not there existed clear coatings which would be effective in stopping the corrosion of reinforcing should a paint or paint coating system not be approved.

Summary of Evidence

Introduction from Processing Planner

Ms Sophie Lord, the Processing Planner, outlined the application made by Baker Garden Architects Ltd, on behalf of the Plaza Property Trust. Her view was that painting John Wickliffe House was problematic as it was contained within a Townscape Precinct of the Dunedin District Plan. Her recommendation to decline consent to paint John Wickliffe House was in part based on recommendations from Mr Phil Hartley of Salmond Reed Architects, Auckland, who had been retained by Council to advise on the application.

The Applicant's Case

Mr Phil Page, Counsel for the applicant, presented written submissions. He responded to the Processing Planner's report and in particular, raised the matter of Rule 13.7.3(ii), which implements Policy 13.3.8, which reads: "exposed stone and brick on the facings of buildings within Townscape or Heritage Precincts are to be retained with their natural appearance." Mr Page contended that John Wickliffe House was clad in concrete panels and as a result, the only decision open to the Committee was what colour scheme should be chosen.

Mr Page then went on to talk about Part II matters of the Resource Management Act which in his view had been incorrectly assessed in relation to the current proposal.

Criticism of the Salmond Reed Architects' report was then made by Mr Page in terms of what he claimed were its technical shortcomings.

Mr Page concluded by emphasising to the Committee that the District Plan allows concrete-clad buildings to be painted via resource consents and that given the painting of other buildings in the central city area; the Committee's only real function is to choose which suite of colours should be used to paint the building.

Mr Tony Offen then spoke to his written submission. Mr Offen represents Plaza Funds Management Ltd, the company responsible to the owners of John Wickliffe House for managing their building. Mr Offen emphasised the need for John Wickliffe House to be maintained and outlined recent work to the building and the fact that it was now fully occupied in contrast to the situation in the mid to late 90's when the current owner first purchased the building. As John Wickliffe House is now over 40 years old, external repairs are required and painting of the building is seen as one way of enhancing the building. Mr Offen's view was that repair of the concrete spalling problem is such that a paint system is required to cover over the necessary concrete repairs, both from an aesthetic point of view and to protect reinforcing steel from further corrosion.

Mr Nick Baker, of Baker Garden Architects, presented his written submission. He set out the fact that as he became more familiar with John Wickliffe House, he believed that it was not possible to retain the original polished concrete finish of the spandrel panels as concrete repairs could not be successfully blended with the rest of the panel. His view was that while the extent of cracking and spalling problems is yet to be determined, as this requires full scaffolding of the building for inspection, the extent of repairs is likely to be extensive.

Mr Baker answered questions from the Committee relating to the structure of the concrete panels and the nature of the concrete spalling, which was a result of water rusting reinforcing steel.

Further questions from the Committee resulted in Mr Baker giving some background on the concrete panels and in particular the polished aggregate finish which is a type of Serpentine Stone sourced from the West Coast at the time John Wickliffe House was built.

Mr John Heenan, Structural Engineer from Beca Consulting, then spoke. He indicated that the degree of concrete spalling was concerning and that one way of summarising the issue is that "concrete cancer" was at work. In his view the precise nature of the cause of the concrete spalling was currently unknown.

One of the issues may be a lack of concrete cover over reinforcing steel.

In his view no repair will match the colour of the panels and that while painting does require maintenance it generally has a time between re-coatings of something in the vicinity of 15 years.

Murray Morgan, Mick Bilbie and Shaun Paul from Titus The Waterproofing Company presented a written submission. While acknowledging that Titus is in the business of providing waterproofing solutions for commercial and government buildings, they submitted that they were in a position to provide expert advice on the matter of solving problems at John Wickliffe House.

The Titus representatives responded to the proposals for panel repairs in the Salmond Reed report commissioned by the Dunedin City Council. In addition they mentioned that clear coatings are not preferred as any moisture present in the panels can cause the coating to yellow and bloom below the surface.

After the Titus presentation, John Heenan in answer to a question from the Committee confirmed that in his view cathodic protection, mentioned in the Salmond Reed report dated 28 July 2014, would not work in the case of John Wickliffe House.

Evidence of Submitters

- Mr Stephen Macknight, a local Structural Engineer, experienced in the refurbishment of buildings within central Dunedin, presented his verbal submission. He was of the view that it is very important to maintain the natural look of the panels on John Wickliffe House. Although they are concrete panels with a polished stone facing, they nevertheless have a finish which enhances the look of John Wickliffe House and allows it to sit comfortably with other buildings in the Exchange area.

He suggested a crane could be used to carry out closer inspections to determine how much concrete spalling currently exists.

Mr Macknight has direct experience with nearby Consultancy House where silicone coatings have been used to good effect on a concrete building. In his view trial repairs should be experimented with so that repairs to the concrete panels can be matched with the rest of the panel. A breathable silicone product may well then be a good solution to allow any existing moisture to escape but inhibit new moisture penetrating the panels and causing decay of reinforcing steel.

- Dr David Murray, a professional Archivist and Historian, specialising in Built Heritage, then spoke to his written submission. He opposed the application to paint John Wickliffe House as doing so would not maintain nor enhance the values of the Townscape Precinct.

Dr Murray went on to talk about the architectural style of John Wickliffe House and how it related to the major architectural movements of recent decades. In his view the maintenance proposals and repair proposals for John Wickliffe House must be compatible with the existing Townscape character of other buildings in the area. He was particularly concerned that painting of John Wickliffe House would create a situation where it lost any sympathy with the concrete-clad Consultancy House and the former Chief Post Office immediately to the south. Painting of John Wickliffe House would be a "high and unwelcome contrast."

Dr Murray encouraged the Committee to retain the carefully designed panels of John Wickliffe House as they are, albeit with the required repairs to overcome concrete spalling. He made the point that painting would be irreversible and of questionable economic sense.

- Ms Elizabeth Kerr presented her written submission which included an outline of her Architecture degrees and involvement with Heritage organisations in Dunedin over a considerable period of time. She was concerned with the poor application and lack of information contained therein. Nevertheless Ms Kerr was pleased to see that Council had sought advice from Salmond Reed Architects of Auckland.

Ms Kerr went on to look at the Architectural characteristics of John Wickliffe House and set the West Coast Serpentine Aggregate panels in context with the Architectural style. She urged the Hearings Committee to decline consent to paint John Wickliffe House and was supportive of Mr Phil Hartley's suggestion that the panels should be repaired without painting via a methodology which tests various repair options.

- Mr Michael Finlay (Practice Fellow at the University of Otago) spoke regarding building conservation matters. He referred to the State Fire Office building nearby as an example of a building which has suffered unfortunate changes.

He referred to the ICOMOS Charter and the fact that he did not want to see John Wickliffe House painted. In his view First Church is an example of how repairs to stone, weather and blend, with the rest of the structure over time.

The Hearing re-convened at 2.00 pm after Committee members had visited the site and observed the scale of the issue and the test repairs carried out to date. A discussion then followed between the Committee and the applicant regarding various repair methodologies. The Hearing was adjourned on the basis that the Committee required further information in relation to whether or not a clear product was available which would protect the concrete panels after repairs. The rights of reply from the Processing Planner and the Applicant were **not** heard during the Hearing of 15 August 2014.

Re-convened Hearing:

The Hearing was re-convened on 23 October 2014 with further information having been circulated to all parties from Mr Phil Hartley of Salmond Reed along with a memorandum from the applicant's counsel, Mr Phil Page. At the beginning of the re-convened Hearing Mr Page, on behalf of the applicant, said that he did not wish to speak at that point but would wait until his Right of Reply.

Further Evidence of Submitters

Mr Steven Macknight spoke to information he circulated to the Committee regarding Sika products which are used to coat concrete and stop corrosion. Under questioning from the Committee Mr Macknight said that even though the test repairs carried out to date were of a poor quality, they did not stand out visually with respect to the rest of the concrete panels. In his view, in the long run, avoiding painting of the building would be much cheaper for the building owners as painting had to be carried out every 15 years.

Ms Elizabeth Kerr spoke to her further written evidence which related to comment on the information circulated from Salmond Reed and also from the applicant. The information circulated by the applicant included a report from Equus Industries Ltd on the available options for proposed exterior concrete repairs and coating finishes. She re-stated her opposition to painting the building and commended to the Committee the comments of Mr Russell Lund who she called as a witness experienced in building repair techniques. Mr Lund noted that the re-convened Hearing was limited to the question of an appropriate clear coat to the pre-cast panels. He supported the use of Sika 740W as a product which has been used on other buildings in Dunedin and that he would recommend for use on John Wickliffe House.

In his view painting of John Wickliffe House would degrade the high quality polished finish of the existing concrete panels. Mr Lund also disputed the assertion made by Titus Waterproofing that colour matching an aggregate repair would be five times greater than the applicant's proposal to repair using unmatched colour mortars.

Under questioning from the Committee, Mr Lund said that in his view the existing cladding of John Wickliffe House is in fact stone on a concrete base.

Reference was also made to Dunedin Hospital which is currently undergoing extensive repairs with silicone products.

Processing Planner's Review of Recommendation

Ms Lord summed up by encouraging the Committee to look at the Townscape Precinct values and determine how they will be affected by the proposal to paint John Wickliffe House. The approach of the Salmond Reed report to come up with a repair methodology using materials which blend with the existing panels was preferable to painting. She recommended that the application to paint John Wickliffe House be declined.

Applicant's Right of Reply

Mr Phil Page, on behalf of the Applicant, indicated that Beca Consulting who have been assisting the applicant, are well aware of the Sika range of products. In his view, the panel design on John Wickliffe House is flawed and that the Committee should consider granting consent to paint the building along the lines of Option 2 in the Equus report which was circulated prior to the re-convened Hearing. Mr Page gave examples of buildings in Dunedin which had been painted with an appropriate coating system, these being Science Three at the University of Otago, the Richardson Building at the University and also Forsyth Barr House in the Octagon.

Mr Page reiterated that John Wickliffe House is not clad in stone but clad in concrete, this being a key matter in relation as to how the Committee should apply the Townscape Precinct values.

Under questioning from the Committee, Mr Page emphasised the need to provide a coating system on John Wickliffe House to stop water getting into the steel reinforcing in the panels.

Mr Page agreed that the extent of the problem is unknown at this stage and that scaffolding will be required to determine this matter.

On behalf of the Applicant he indicated that coating of every panel will be required and that the timing of the repairs is based on the risk which, at this stage, still needs to be assessed.

Statutory and Other Provisions

In accordance with Section 104 of the Resource Management Act 1991, the Planner's Report detailed in full the relevant statutory provisions and other provisions of the Committee considered. Regard was given to the relevant provisions of the following chapter of the Dunedin City District Plan: 13 Townscape provisions. Statutory provisions considered included Sections 5 (2) (c), 6 (f), 7(c) and 7(f) within Part II of the Act.

Main Findings on Principal Issues of Contention

The Hearings Committee has considered the evidence heard, the relevant statutory and plan provisions, the principle issues in contention. The main findings on the principle issues have been incorporated within the reasons discussed below.

Decision

The final consideration of the application, which took into account all information presented at the Hearing, was held during the public-excluded portion of the Hearing. The Committee reached the following decision after considering the application under the statutory framework of the Resource Management Act 1991. In addition, a site visit was undertaken during the public-excluded portion of the Hearing. The Committee inspected the site and some other buildings referred to during the hearing and this added physical reality to the Committee's considerations.

*That, pursuant to Sections 34A and 104C and after having regard to Part II matters and Section 104 of the Resource Management Act 1991, The Dunedin City Council **declines** consent to the **restricted discretionary activity** to paint John Wickliffe House on the site at 265 Princes Street, Dunedin, being that land legally described as Section 6 Block XLIV Town of Dunedin held in Computer Freehold Register OT 18A/1024.*

Reasons for this Decision:

1. Introduction

The Committee appreciated the effort the Applicant went to, to provide at the Hearing expert advice from an Architect, an Engineer and from a specialist coating firm. The Committee gained a good appreciation of the nature of the concrete spalling problem at John Wickliffe House and of the Applicant's proposal to repair the concrete and use a paint coating system to cover the currently unpainted panels on the building. In the end the Committee was not convinced a painting solution was the only solution to the problems of repair to John Wickliffe House.

2. The Committee was also appreciative of evidence from submitters, some with considerable large building maintenance experience, along the lines that the building should not be painted but have repairs undertaken which blended with the rest of the panels and with the possible utilisation of a clear coat silicone product to control water ingress to the reinforcing.
3. In the end the decision to paint or not to paint, had to be made on the basis of two quite different philosophical approaches. As a result the Committee found it helpful to return to the precinct values and assessment matters set out on page 13.22 and page 13.45 of the Townscape section of the Dunedin District Plan. By way of clarification it is noted that John Wickliffe House is situated in the North Princes Street/Moray Place/Exchange Townscape Precinct and is not located in a Heritage Precinct.

4. Reasons relating to Precinct Values (Page 13.22 Dunedin District Plan)

In terms of the Precinct values, the Committee noted the quality construction of John Wickliffe House and its location on a whole street block giving it a dominant presence within the Exchange area. Not only is John Wickliffe House a large building, the Plaza

area to the northwest means that it is able to be viewed from a distance of 100-200 metres and is a particularly striking building when viewed by car or on foot travelling south on Princes Street. As a result the impact of any changes to the external fabric of the building would have a substantial effect on inner city amenity values.

5. Along with the floating parapet at the top of the building, the polished stone panels are a major feature of the building design. The panels using West Coast Serpentine Stone blend well with other concrete and stone finishes on buildings nearby and in particular with the Chief Post Office immediately to the south and with Consultancy House to the east. It is the Committee's view that painting these stone-faced panels would have a substantial adverse effect on the Exchange environment whatever colour scheme was used.

6. Reasons relating to Assessment Matters (Page 13.45 Dunedin District Plan)

Having looked at the Precinct Values above the Committee then considered the Assessment Matters on page 13.45 of the Dunedin District Plan (Rule 13.7.3 (ii)). The Assessment Matters relate to the alteration and painting of any building in the Townscape zone and also place considerable emphasis on the profile, size, style and character of the building under consideration. The design and appearance of the building along with cladding materials are also matters to be taken into consideration. In the case of John Wickliffe House all the foregoing features are highly relevant to an application seeking to paint the building because of its size and location. The Committee considered all values in that section and weighted them according to their relevance and to the site specific issues.

7. A further factor mentioned in the Assessment Matters under clause (ix) are the Conservation Principles contained within the ICOMOS NZ Charter for the conservation of Places of Cultural Heritage Value. While "cultural heritage value" is very broadly defined in the charter nevertheless the Committee believes paragraph 19 (Restoration) is relevant to the current application in that it seeks to restore buildings based upon respect for existing fabric. As discussed elsewhere in this decision the horizontal building panels are faced with a polished aggregate, featuring serpentine stone especially imported from the West Coast of the South Island for the cladding of John Wickliffe House.
8. Of particular note is clause (xi) of the Assessment Matters which refers to the authenticity of the Architectural design of the building. The panels on John Wickliffe House were designed and constructed especially for the building, and as a result to have these panels painted would substantially alter the visual impact of the building in the Exchange area. Clearly the Applicant has a repair problem to solve with respect to concrete spalling caused in part by water seeping into steel reinforcing. Nevertheless, the subsequent painting of John Wickliffe House after repairs, in the Committee's view, should only be considered as a last resort if no other repair or finish options were available. In this case Council received expert advice from Salmond Reed Architects in Auckland and also submissions from local people knowledgeable in the repair of buildings that it should be possible to develop a repair methodology such that painting of the building was not necessary.

9. General Matters

The Committee acknowledges that the repair methodology mentioned above would involve experimentation and development of a process which is more uncertain than the repair and paint option desired by the Applicant. But in the Committee's view, John Wickliffe House is such a valuable building within the Exchange Precinct that it is worthy of the building owner devoting effort to development of a solution.

10. While not an assessment matter or a Precinct value within the Exchange Precinct, the fact that not painting John Wickliffe House is likely to lead to a more cost-effective outcome for the Applicant was another factor in declining the application to paint. All parties to the Hearing agreed that paint and coating systems require re-application on a cycle in the vicinity of 15 years.

11. The Committee also noted that while much of the Hearing evidence related to the polished stone panels, there were also stone panels in the lower floors of the building of a different type which would also be obliterated by paint. Both types of stone finish were considered to contribute to the Townscape Precinct values set out in the Dunedin District Plan.

Right of Appeal

In accordance with Section 120 of the Resource Management Act 1991, the applicant and/or any submitter may appeal to the Environment Court against the whole or any part of this decision within 15 working days of the notice of this decision being received. The address of the Environment Court is:

The Registrar
Environment Court
PO Box 2069
Christchurch 8140

Any appeal must be served on the following persons and organisations:

- The Dunedin City Council
- The applicants
- Every person who made a submission on the application

Yours faithfully



Cr Kate Wilson
Chairperson
Dunedin City Council Hearings Committee