

# Development Management Sub Committee

**Wednesday 11 February 2015**

**Enforcement Report into Breach of Control at  
30 - 31 Princes Street  
Edinburgh  
EH2 2BY  
Reference No: 13/00784/ELBB**

<b>Item number</b>	6.4
<b>Report number</b>	
<b>Wards</b>	A11 - City Centre

## Links

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<b>Coalition pledges</b>	None
<b>Council outcomes</b>	CO19
<b>Single Outcome Agreement</b>	SO4

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# Executive Summary

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## Summary

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### Breach of Control

Unauthorised works to a listed building involving the removal of a decorative finial known as 'Forsyth's Globe'.

## Equalities impact

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No impact on equalities or human rights.

## Consultation and engagement

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### Representations

Seven representations have been received from members of the public and local councillors.

## 1. Background

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### Site Description

The building is a category A listed building, and is the former Forsyth's department store building on the corner of South St. Andrew Street and Princes Street. It was designed by J.J.Burnet and is dated 1906-07.

The building was listed on 14 September 1966 (Ref: 29503).

The building is used as retail on the basement, ground and first floors. The second to fifth floors are occupied as hotel accommodation.

It is situated within the Edinburgh World Heritage Site and is in the New Town Conservation Area.

The property is a prominent feature along Princes Street and the roof and spire are important aspects of the protected skyline within important viewcones.

## Site History

Various planning, listed building and advertisement applications relating to retail units at lower floors and hotel accommodation on upper floors of buildings.

27 April 2012 – Listed building application for ‘removal of damaged and unsafe finial comprising steel globe, garlands and steel support’ withdrawn prior to determination (12/00687/LBC). Historic Scotland were consulted as part of this application and noted that the globe is a particularly important part of the Category A listed building, recommending its repair and reinstatement at the earliest opportunity.

## 2. Main report

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In determining whether a breach of listed building and planning control has occurred and whether it would be expedient to serve enforcement notices requiring the reinstatement of the ‘Forsyths Globe’, the planning authority must have regard to the following factors;

- a) Whether a breach of listed building control has occurred;
- b) Whether a breach of planning control has occurred;
- c) Whether it would be expedient to serve enforcement notices having regard to the provisions of the development plan and any other material considerations;  
and
- d) Potential implications of non-compliance with the notice.

a) The Forsyth’s Globe is an openwork armillary sphere, encircled by a decorative band depicting the signs of the zodiac, and supported by three cherubs with garlands. It was designed by Gilbert Bayes and measures approximately 4.7m tall x 2.6m in diameter. The globe sat upon an octagonal turret, clad in timber, and secured by a cast iron ring. The globe is formed in mild steel, cast iron and lead. It is understood that the original signs of the zodiac have been replaced at some point in the past with fibreglass replacements; however this alteration occurred at least 12 years ago.

The globe was constructed as an original part of the property which was the first fully steel framed building in Scotland. It is a prominent feature of the building located at the corner of Princes Street and South St Andrew Street and is visible from various sites in the Old and New Towns. The presence of the globe formed an important architectural component of the listed building, contributing to its special interest, and is specifically noted within the Historic Scotland statutory listing of the property.

The globe was removed from the building in March 2012. An application for listed building consent was submitted retrospectively for the removal of the globe in April 2012, which stated that the globe had been removed due to its damaged and unsafe state which represented, in the opinion of the owners, a safety risk. Supporting documentation was submitted with this application to show the works which would be required to restore the globe and supporting turret. However, this application was withdrawn by the applicant before a determination could be made.

To date, the Forsyth’s Globe remains absent from the property.

The removal of the Forsyth's Globe is an alteration which affects the character of the building of special architectural and historic interest and listed building consent would be required for its removal. No listed building consent has been granted for the work.

As such, the removal of the Forsyth's Globe is unauthorised and constitutes a breach of listed building control.

b) The property is located in a highly prominent position within the city centre and the globe was located at the corner of the property facing onto two busy streets. The globe was positioned on top of the tower, and formed a visually prominent feature and an important focal point. The removal of the globe is considered to be an operation which materially affects the external appearance of the building as a whole.

There are no permitted development rights for material alterations to commercial buildings in the New Town Conservation Area.

The site is located within a protected viewcone as identified within the Edinburgh Design Guidance and the removal of the globe, as one of the prominent features within the view between Princes Street and Calton Hill, adversely impacts on the skyline.

As no planning permission has been granted for the removal of the globe, a breach of planning control has occurred.

c) Policy ENV 4 of the Edinburgh City Local Plan states that proposals to alter a listed building will be permitted where these are justified and will not cause any unnecessary damage to historic structures or diminish the special interest of the building.

Policy ENV6 of the Edinburgh City Local Plan requires that such works to buildings in a conservation area preserves or enhances its special character or appearance. Development should also demonstrate high standards of design and utilise materials appropriate to the historic environment.

The removal of the Forsyth's Globe adversely impacts on the special interest of the listed building and its permanent removal fails to comply with the development plan and would not be supported.

To date there has been a variety of correspondence between the planning authority and the owners of the property as a result of the enforcement investigation, with little meaningful progress seen towards the restoration of the globe. However, given the nature of the breach it has been the preferred option of the planning authority that works to reinstate the globe would be carried out voluntarily by the owners without resorting to the use of statutory enforcement action.

Planning and listed building enforcement notices could be served to rectify the breach of control and require reinstatement of the globe. The enforcement notice would, in effect, require the owners of the property to carry out repairs to the globe in order to bring it up to a standard that would allow it to be reinstated safely on the turret. A compliance period of 6-9 months would be provided in order that the remedial works could be carried out before reinstatement of the globe on the roof of the building.

Should a listed building enforcement notice be served the owners of the property have a statutory right of appeal against the notice.

A statutory defence to a breach of listed building control is that the works to the building were urgently necessary in the interests of safety or health, or for the preservation of the building. A conservation report submitted to the Council by the owners has shown that the globe was in a poor state of repair at the time it was removed.

However, within the report there is little detail to evidence that the works were required urgently in the interest of public safety and states that for the globe 'due to poor maintenance all joints are corroded, although the structure at present would seem to be reasonably sound'.

It would appear that although the works were necessary they were not urgently necessary at the time the globe was removed.

d) In the event of the owners of the property failing to comply with an enforcement notice, it would be necessary for the planning authority to carry out direct action to reinstate the globe.

The extent of the works required would be considerable, including works to supply replacement parts of the globe in steel, iron and lead where fixings are currently corroded. New stainless steel armatures would require to be formed to support the globe and extensive treatment of corroded areas would be required. Cranes would be required to move the globe and the exterior of the building would need to be scaffolded. Estimates provided by council surveyors anticipate that the cost of the works would possibly exceed £200,000, a figure that is approximately the same as provided by the owners.

To ensure that the globe is reinstated in a structurally sound manner on the roof of the premises there may also be the requirement to carry out remedial work to the roof turret which is also showing signs of corrosion in the steel bracings and ring beams. The extent of the works required within this area is not completely known without further inspection following removal of the original timber cladding to expose the interior of the turret.

In addition, once the works have been completed the globe will require to be re-craned onto the property overnight to avoid significant interference with the tram lines which run adjacent to the site.

In order for the direct action works to be carried out the Council will be required to pay the necessary costs upfront and claim these back from the owner of the building, Redcastle Limited. In the event these cannot be repaid, costs associated with the works may be left as a burden on the title deeds of the property.

### **3. Recommendations**

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It is recommended that a listed building and planning enforcement notices are served to require the reinstatement of the globe. This would include a requirement to carry out structural works to the supporting turret and essential repairs to the globe, detailed within the Nicholas Boyes Stone Conservation Assessment Report, to be carried out to the globe prior to its reinstatement.

# Statutory Development Plan Provision

Date registered

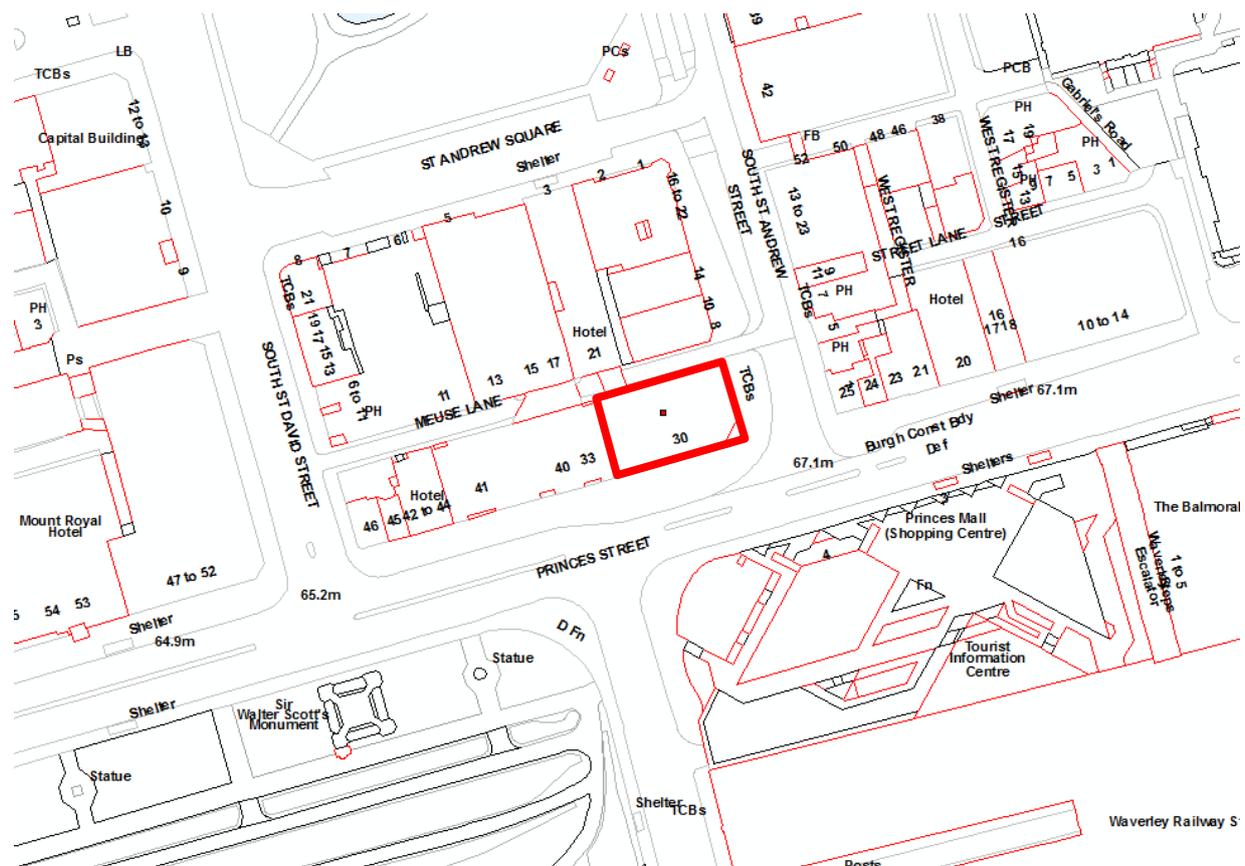
Date Complaint Received **11 December 2013**

## Links - Policies

Policy Env 4 (Listed Buildings – Alterations & Extensions) identifies the circumstances in which alterations to listed buildings will be permitted.

Non-statutory guidelines (Listed Buildings and Conservation Areas) provide guidance on repairing, altering or extending listed buildings and unlisted buildings in conservation areas.

## Location Plan



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