



Planning (Listed Building and Conservation Areas)
(Scotland) Act 1997
Appeal Decision Notice

Decision by Leigh Johnston, a Senior Appeals Planner appointed by the Scottish Ministers

- Listed building enforcement appeal reference: LBE-170-2010
- Site address: Holywood Church, Holywood, Dumfries, DG2 0RH
- Appeal by Mark Huitson and Rachel Bonde against the listed building enforcement notice dated 20 May 2025 served by Dumfries and Galloway Council
- Alleged breach of listed building control: the removal of 2 x church bells from the belfry, and removal of 2 x stone plaques from a category B listed building without listed building consent
- Ground(s) of appeal under s35(1) of the Act: (d) and (e)

Date of appeal decision: 01 October 2025

Decision

I dismiss the appeal, refuse to grant listed building consent for the matters covered in the listed building enforcement notice, and direct that the notice be upheld subject to the deletion of Section 1 from Part 5 of the notice which reads: *1. Reinstate the original bells to the belfry (should the original housing/belfry be damaged/in need of repair, repairs to be undertaken that sympathise with the Category B listing and materials) these repair details are to be submitted to, and approved, by the Council prior to undertaking any works.*

and its replacement with the following words:

“1. Reinstate two bells to their original locations within the belfry - should the bells housing/belfry be damaged/in need of repair, a method statement and programme of works detailing the type of repairs to be undertaken and materials to be used in reinstatement works to this Category B listed building are to be submitted to, and approved in writing, by the Council prior to undertaking any works.”

and insertion of the following words to continue on from Section 2’s first sentence:

“- a method statement and programme of works detailing the type of repairs to be undertaken and materials to be used in reinstatement works to this Category B listed building are to be submitted to, and approved in writing, by the Council prior to undertaking any works.”

Subject to any application to the Court of Session, this notice takes effect on the date of the decision, which constitutes the determination of the appeal for the purpose of Section 35(3) of the Planning (Listed Buildings and Conservation Areas)(Scotland) Act 1997.

Reasoning

1. The appeal was made on the following grounds as provided for by section 35(1) of the Planning (Listed Buildings and Conservation Areas)(Scotland) Act 1997:

- (d) that
- (i) works to the building were urgently necessary in the interests of safety or health, or for the preservation of the building;
 - (ii) it was not practicable to secure safety or health or, as the case may be, the preservation of the building by works of repair or works for affording temporary support or shelter; and
 - (iii) the works carried out were limited to the minimum measures immediately necessary; and
- (e) that listed building consent ought to be granted for the works, or that any relevant condition of such consent which has been granted ought to be discharged, or different conditions substituted.

Ground (d)

2. With regard to ground (d), the appellant contends that the removal of the bells and plaques from their original fixings were required before necessary rehabilitation works were carried out to the bell tower, the bells, and hearse house roof of Holywood Church. The appellants have also confirmed that they are the persons who temporarily removed the items from the church buildings into secure storage to maintain the security of the church while it stands empty and undeveloped, and that they themselves have deliberately suspended any refurbishment and development works.

3. I have not been provided with evidence to demonstrate why these unauthorised works were urgently necessary for health, safety or the preservation of the building as required by part (d)(i). There has been no evidence submitted by the appellant setting out the risk to health and or safety to justify the removal of the bells and the plaques. I have not been provided with any information relating to professional advice and the input of a structural engineer or conservation architect being sought by the appellants prior to any proposed repair/conservation works, and there does not appear to have been any liaison with the local authority planning service.

4. I have not been provided with the evidence to demonstrate why the installation of temporary structural supports or the installation of a security system, other potential security options or environmental monitoring equipment were not considered as alternative measures to the removal of historic fixtures and fittings offsite for their 'safeguarding', as required by part (d)(ii). I find that it has not been demonstrated that there was a risk to the items or a risk to the structural condition of the church buildings. Details of any in situ security systems, and any breaches of such systems, have not been submitted. Police incident reports of attempted breaking and entering, robbery or trespass at the church have not been submitted. Nor has any CCTV evidence of attempts to remove or damage the bells or plaques has been submitted in support of this appeal. By the appellants own admission, the status of the items is disputed and so the level of risk based on the current listing designation is not more than would be expected in any listed church building in Scotland.

5. Therefore, I find that insufficient evidence has been provided to demonstrate the urgent need to remove the bells for reasons of health or safety or for the preservation of the building. I find the appeal fails on ground (d)(i) and (ii).

6. I have not been provided with the evidence to demonstrate that the works carried out were limited to the minimum measures immediately necessary as required by part (d)(iii). Given that the rehabilitation works continue to remain outstanding, I am not convinced that works were limited to the minimum measures immediately necessary. I find that the appeal fails on ground (d)(iii).

Ground (e) - that listed building consent ought to be granted for the works

7. In considering whether listed building consent ought to be granted for the works, I am required by section 14(2) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

8. Therefore, the main focus of this appeal is the impact of the unauthorised removal of the bells and plaques on the listed building itself, not the historic significance, importance, value or provenance of the artefacts removed in themselves.

9. Holywood Parish Church and Churchyard was listed at Category B in 1971 and the listed building description was updated in 2024. It states *“Holywood Parish Church has special architectural and historic interest as a major example of an intact later 18th century parish church that retains its plan-form, exterior details, interior fixtures and rural churchyard setting with related structures and memorials. It stands on or close to the site of Holywood Abbey, a later medieval Premonstratensian abbey, of which no upstanding remains survive. Stone from the abbey was used in the construction of the present church. The church bells, which hung in the former abbey church, are part of the special interest of the building and contribute to an understanding of the earlier ecclesiastical history and development of the site. The church tower is a prominent landmark in the wider landscape. The church remains legible as part of a group of related stone-built structures that bear witness to the historic function of the site as a place of worship and burial.”*

10. The bells and plaques clearly form an important and integral part of the currently B-listed building complex, regardless of any separate action to change the status of the listing, or amending the listing itself. The process for amending a listing designation via Historic Environment Scotland is separate from any enforcement appeal and its outcome.

11. The unauthorised removal of the bells and the plaques has been admitted by the appellants in their own submissions. Regardless of their provenance, or disputed provenance, fixtures and fittings have been removed without the requisite consent. The appellants have also asserted that the condition of the church is not the reason the bells and stones are removed, but for security measures only, and confirm that the church remains in its original dilapidated condition. The appellants have also declined to identify the location where the bells and plaques are currently being kept for ‘safeguarding’.

12. I note that the bells have not been returned and reinstated in the church and the plaques have not been reinstated in the hearse house, as required by the Listed Building Enforcement Notice. I have not been provided with evidence to indicate where and how the bells are currently being stored securely.

13. The appeal submissions do not address why an option for retaining the bells in situ was not explored or why an alternative arrangement for the bells to be housed permanently off site in a location to be agreed between relevant parties was not pursued.

14. I find that the special architectural or historic interest of the listed building has not been preserved by the actions undertaken, as the bells and plaques are a part of the special interest of the building and contribute to an understanding of the earlier ecclesiastical history and development of the site.

15. Taking all of the submissions, and lack of submissions, into account, I conclude that the unauthorised works have harmed the listed building and some of its features of special architectural and historic interest. I find no material considerations to justify granting listed building consent for such harmful works.

16. Therefore, I find that listed building consent should not be granted for the works and accordingly I find that the appeal fails on ground (e).

17. The appellants have submitted a significant amount of information and historical research however the majority has not been material to my considerations in determining this Listed Building Enforcement Notice appeal.

18. The consequence of the grounds of appeal (d) and (e) failing mean that the two bells and two stone plaques must be returned and carefully reinstalled in their original locations to preserve the listed building and the features of special architectural or historic interest.

19. For clarity, I am varying the text of the Listed Building Enforcement Notice to include the requirement for a detailed method statement and programme of works for reinstatement of both the bells and plaques. In all other respects the terms of the notice have not changed.

20. For the reasons set out above, and having regard to all other matters raised, there are none that would lead me to alter my conclusions. I find the appeal does not succeed under grounds (d) or (e) of the Act. Therefore, I dismiss the appeal and uphold the listed building enforcement notice with variations.

Leigh Johnston

Senior Appeals Planner