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**From:** Mark Vorenkamp [REDACTED]  
**Sent:** 04 December 2015 17:12  
**To:** PI  
**Subject:** Objection to Planning Application 151773

Dear Planning Department

We wish to submit our objection to the above referenced Retrospective application submitted by the Chester Hotel for a Glass balustrade.

The Chester Hotel has abused planning policy on several previous occasions. This is yet another incremental attempt to achieve their ultimate goal of creating an entertainment venue on their roof.

We sincerely believe that the Planning Department as well as ourselves can see clearly where this is going in terms of another legal challenge for their right to use this space once the balustrade gains approval.

This will lead to further degradation of the amenities of our neighbourhood amenities.

A previous planning application to make use of this flat roof space was withdrawn at the last minute. This was after the Planning Department had recommended rejection. The reasons for this rejection were succinctly outlined by the Planning Department in their recommendation statement.

We hope that the Planning Department will refuse this retrospective application or attach such conditions to it so that the eventuality of this space ever being used for entertainment will be prevented.

The Chester Hotel continues to create sporadic instances of disturbance during their functions. They have proven to be both unable and unwilling to control their noise disturbance in the neighbourhood

Residents are powerless to stop this noise even into the early hours of the morning. When requested, the Chester refuses to make any effort to reduce the noise and profanity of their guests.

We rely on your continued support over this seemingly never ending issue.

Thank you,

Regards

Mark and Isobel Vorenkamp

**From:** Jennifer West <  
**Sent:** 09 December 2015 00:54  
**To:** PI  
**Subject:** Fwd: Planning Application 151773 - Erection of (A) glass balustrade at the West side terrace, first floor, rear of Chester Hotel (retrospective)

Dear Sirs

I object to the above planning application for the following reasons :

1. It cannot be considered 'essential' as claimed by the applicant as this would mean that all flat roofs would be required to have a balustrade.
2. There is a history to this terrace/balustrade application and it is evident that a stealth process is being used in an attempt to obtain planning permission for a balcony that will allow the hotel to use it for patrons. Planning permission for this balcony was already recommended for refusal in a previous planning application that was withdrawn by the applicant on the day that it was to be considered by the planning committee. If the current application is granted there will be a de facto terrace in existence with permission for its flooring, boundaries and even a door giving access to it. No doubt the next step will be to use it as a terrace and claim that the Planning Department actually gave permission for a terrace. A similar process was followed by the applicant in relation to another part of the balcony leading to an application for a Certificate of Lawfulness which was granted by the council planning department. In this case neighbour notification was neatly sidestepped because permission for the structure beneath this part of the balcony was granted as a non-material variation. This is clearly not in the spirit of the planning legislation.
3. It is a retrospective planning application - see further comments below regarding retrospective applications.
4. this is the third attempt at obtaining planning permission - the other two being withdrawn by the applicant.

Earlier this year a retrospective application was refused by the council planning committee for modifications to the Crombie Halls at Aberdeen University with Councillors determining that a 'precedent' for such work would not be set due to the retrospective nature of the application (reference P&J 21st September 2015). If this application is granted then it would set the same type of 'precedent' that was not accepted by Councillors for the University's retrospective application. Surely this would be inconsistent. Furthermore the applicant has now submitted a series of retrospective applications and as a simple matter of principle it should be refused. It is a waste of scarce public resources and unfair on applicants who submit planning applications in the proper manner and wait for approval before commencing their building work. .

In the supporting statement accompanying the application the applicant is equivocal about the future use of the side terrace. On the one hand in paragraph 2.2. it is stated that the applicant has no "**current plans**" for use other than use by hotel staff and contractors undertaking cleaning and maintenance activities. On the other hand in the same paragraph the possibility of an alternative use is specifically alluded to. The applicant undertakes to "**discuss**" any such alternative use with the Council. However I am also aware that that the Council previously stated formally in the certificate issued on 1 July 2015 in respect of Application P150763 (relating to outdoor dining and hospitality use) that the certificate issued does not apply to the area of terrace to the west side of the first floor dining area use of which remains "**unauthorised**". In its report on that particular application the Council stated that it did not accept that a blanket right exists to use the roof of the hotel for trading or operational purposes. I would agree with that position and would accordingly submit that, given the Council's previously stated position, the use of the west (side) terrace for outdoor dining and hospitality would require the submission and granting of a further planning permission authorising such use. The applicant's statement in paragraph 2.2 conveys the impression that the applicant might not be inclined to accept that proposition.

In this particular case therefore - given the background above narrated - I would suggest that, if the current application is to be granted, it would be appropriate for the Council to impose a condition prohibiting any trading or operational use of the west (side) balcony (other than to permit its cleaning and maintenance). Such a condition could be imposed under the powers available to the Council in terms of Section 41(1)(a) of the Town and Country Planning (Scotland) Act 1997 which permits the planning authority to impose conditions on the grant of planning permission "**for regulating the development or use of any land under the control of the applicant (whether or not it is land in respect of which the application was made)....so far as appears to the planning authority to be expedient for the purposes of or in connection with the development authorised by the permission.**" In my submission there is a sufficient connection in this case. It would be expedient for the Council to impose such a condition to safeguard against the possible mischief of any noise nuisance or any other diminution of amenity to neighbouring properties by reason of any intensification or alteration in the pattern of use of the west (side) terrace which might be associated with any retrospective approval of the installation of the balustrade. Such a condition would also, in my submission, pass the six tests imposed by Circular 4/1998 - namely it would be necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects.

Health and safety of staff and contractors are cited by the applicant as rendering it "essential" that the planning permission be granted. I would however submit that it can readily be inferred from the recent planning history of this property (and in particular from the sequence of retrospective applications and the previous enforcement action relating to the above property) that the applicant's ultimate intention is for the west (side) terrace to be used by hotel guests. This particular application appears to me to be the latest in a series of applications aimed at securing that ultimate end result.

I am not convinced that the balustrade is essential. It is noted that the current use of the west side terrace is for use by hotel staff and contractors undertaking cleaning and maintenance activities. It is of course accepted that this is a flat roof and that health and safety considerations therefore undoubtedly arise in relation to its cleaning and maintenance. However - is the applicant seriously asking the Council to accept that the construction of a balustrade is the only solution in such circumstances and that there aren't any alternative means of securing the safety of employees and contractors? If the applicant's arguments were to be followed to their logical conclusion they could be taken to justify, on health and safety grounds, the erection of a balustrade on the perimeter of any flat roof.

My principal contention is therefore that it is not essential that the application should be granted.

Best regards,

Jennifer West

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**From:** gordon west  
**Sent:** 08 December 2015 23:46  
**To:** PI  
**Subject:** Planning Application 151773 - Erection of (A) glass balustrade at the West side terrace, first floor, rear of Chester Hotel (retrospective)

Dear Sirs,

I wish to object to the planning application: Planning Application 151773 - Erection of (A) glass balustrade at the West side terrace, first floor, rear of Chester Hotel (retrospective), and have included below my father's objection, the sentiment and points in which I agree with.

Yours faithfully,

Gordon West

Dear Sirs

We object to the above planning application for the following reasons

1. It cannot be considered 'essential' as claimed by the applicant as this would mean all flat roofs would be required to have a balustrade.
2. There is a history to this terrace and this is a stealth process to obtain planning permission for a balcony that will allow the hotel to use it for patrons. This balcony was already recommended for refusal in a previous planning application that was withdrawn by the applicant on the day that it was being put in front of the planning committee. A similar process was followed by the applicant for another part of the balcony under an application for a certificate of lawfulness which was granted by the council planning department.
3. It is a retrospective planning application - see further comments below regarding retrospective applications.
4. this is the third attempt at obtaining planning permission - the other two being withdrawn by the applicant.

Earlier this year a retrospective application was refused by the council planning committee for modifications to the Crombie Halls at Aberdeen University with Councillors determining a 'precedent' for such work will not be set due to the retrospective nature of the application (reference P&J 21st September 2015). If this application is granted then it will set the same 'precedent' that was not accepted by Councillors for another retrospective application. Furthermore the applicant has now submitted a series of retrospective applications and as a simple matter of principle it should be refused. It is a waste of scarce public resources resources and unfair on applicants that submit planning applications in the proper manner and wait for approval before commencing their building work.

In the supporting statement accompanying the application the applicant is equivocal about the future use of the side terrace. On the one hand in paragraph 2.2. it is stated that the applicant has no "current plans" for use other than use by hotel staff and contractors undertaking cleaning and maintenance activities. On the other hand in the same paragraph the possibility of an alternative use is specifically alluded to. The applicant undertakes to "discuss" any such alternative use with the Council. However I am also aware that that the Council previously stated formally in the certificate issued on 1 July 2015 in respect of Application P150763 (relating to outdoor dining and hospitality



use) that the certificate issued does not apply to the area of terrace to the west side of the first floor dining area use of which remains "unauthorised". In its report on that particular application the Council stated that it did not accept that a blanket right exists to use the roof of the hotel for trading or operational purposes. I would agree with that position and would accordingly submit that, given the Council's previously stated position, the use of the west (side) terrace for outdoor dining and hospitality would require the submission and granting of a further planning permission authorising such use. The applicant's statement in paragraph 2.2 conveys the impression that the applicant might not be inclined to accept that proposition.

In this particular case therefore - given the background above narrated - I would suggest that, if the current application is to be granted, it would be appropriate for the Council to impose a condition prohibiting any trading or operational use of the west (side) balcony (other than to permit its cleaning and maintenance). Such a condition could be imposed under the powers available to the Council in terms of Section 41(1)(a) of the Town and Country Planning (Scotland) Act 1997 which permits the planning authority to impose conditions on the grant of planning permission "**for regulating the development or use of any land under the control of the applicant (whether or not it is land in respect of which the application was made)....so far as appears to the planning authority to be expedient for the purposes of or in connection with the development authorised by the permission.**" In my submission there is a sufficient connection in this case. It would be expedient for the Council to impose such a condition to safeguard against the possible mischief of any noise nuisance or any other diminution of amenity to neighbouring properties by reason of any intensification or alteration in the pattern of use of the west (side) terrace which might be associated with any retrospective approval of the installation of the balustrade. Such a condition would also, in my submission, pass the six tests imposed by Circular 4/1998 - namely it would be necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects.

Health and safety of staff and contractors are cited by the applicant as rendering it "essential" that the planning permission be granted. I would however submit that it can readily be inferred from the recent planning history of this property (and in particular from the sequence of retrospective applications and the previous enforcement action relating to the above property) that the applicant's ultimate intention is for the west (side) terrace to be used by hotel guests. This particular application appears to me to be the latest in a series of applications aimed at securing that ultimate end result.

I am not convinced that the balustrade is essential. It is noted that the current use of the west side terrace is for use by hotel staff and contractors undertaking cleaning and maintenance activities. It is of course accepted that this is a flat roof and that health and safety considerations therefore undoubtedly arise in relation to its cleaning and maintenance. However - is the applicant seriously asking the Council to accept that the construction of a balustrade is the only solution in such circumstances and that there aren't any alternative means of securing the safety of employees and contractors? If the applicant's arguments were to be followed to their logical conclusion they could be taken to justify, on health and safety grounds, the erection of a balustrade on the perimeter of any flat roof.

My principal contention is therefore that it is not essential that the application should be granted.

Best regards

Alan West

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**From:** NICOL BRADFORD <  
**Sent:** 08 December 2015 21:39  
**To:** PI  
**Subject:** Objection to Planning Application 151773 (Chester Hotel, Balustrade West - Retrospective)

Dear Sir / Madam,

Objection to Planning Application 151773 (Chester Hotel, Balustrade West – Retrospective)

I wish to submit an object to the subject planning application 151773 by the Chester Hotel for retrospective approval of the Balustrade on the external west side. Although the application attempts to propose a safety requirement and concentrates on the balustrade itself, the planning application cannot be separated from the potential end use of the enclosed external area or from the way in which the construction and planning process has been carried out by the applicant.

The external terrace and this surrounding balustrade have been subject of a number of previous licensing and planning (retrospective) applications, to which myself and neighbours have strongly objected due to the resulting unacceptable disturbance and noise, and reduction in amenity in the residential area. Various applications were lodged in Apr 14, Aug 14, Sep/Nov 14, Feb 15 and Jun 15 (some retrospective, some rejected, some withdrawn) - each trying a different approach. This serves to highlight the applicant's attitude and behaviour towards the development and regulatory process, and towards the neighbouring residents and families – in the past, present and future.

There are inconsistencies between the current and previous applications. What is described as a flat roof and a conference/meeting facility was previously described as an external terrace/balcony and a wedding/function suite – these are significant differences. The previous application cited makes no mention of outdoor use of the flat roof or terrace for any purpose. Although the applicant states they do not wish to use the terrace (save for maintenance) they do not rule out future applications, and previously sought to use it as an extension to the internal facilities. However, interestingly, the applicant also states that the flat roof was not designed for use by guests, which clearly contradicts previous applications. The applicant also contends that the balustrade is not an afterthought but it was not on previous applications.

It is a concern that approval of the balustrade will eventually result in full permission for the related balcony/terrace due to further applications or by virtue of its existence (e.g. common use) or it will be mistakenly used by the hotel staff and guests. In fact the applicant contrives such a scenario to justify the balustrade. In reality there should not be such an access door for the guests to use – the access should be somewhere safe or the door should be locked.

As explained in previous objections the use of the external terrace will result in excessive noise and disturbance in a residential area. The large elevated balcony overlooking, and in full view of, the surrounding houses with young children will result in a significant reduction in privacy. The hotel will not always be able to satisfactorily control the behaviour of guests and noise will be unavoidable, potentially all day and every day. There is no practical or effective recourse open to neighbours in such an event, and if use is approved or becomes normal there is no realistic guarantee of the future use by the hotel. Given the history this is a real threat to the neighbours.

Thank you for considering this objection.

Regards, Nicol.

Mr Nicol Bradford



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**From:** webmaster@aberdeencity.gov.uk  
**Sent:** 08 December 2015 22:21  
**To:** PI  
**Subject:** Planning Comment for 151773

Comment for Planning Application 151773

Name : Mrs Wendy Bradford

Telephone : [REDACTED]

Email :

type :

Comment : I wish to raise my objection to the Planning Application submitted by The Chester Hotel relating to a balustrade to the West of the property. However may I highlight that this is not just a simple balustrade but this retrospective application is truly a gateway to an outside roof terrace and restaurant area which the Licence Board and City Council have already refused and there have been several circuitous routes round this decision by the hotel owner.

I hold no qualifications in law or planning but am highly concerned that by granting permission for this balustrade it will automatically allow the hotel to use this space as they should wish. We, local residents, have been subjected to and have had to deal with the consequences of multiple retrospective planning applications and their outcomes. The facilities and amenities have switched significantly with no consideration for the local families nor regard for due process.

There has been much discussion with acoustic reports and impacts should this area be used for entertaining and would ask that the decision with regard to a balustrade should be thoughtfully considered. There is limited recompense should this be granted and could potentially allow use daily and into the small hours of the morning.

Already there appears to be storage on this roof area which is visible from Harlaw Place. Naturally a flat roof, as I understand, does not require a full balustrade for safety purposes so am perplexed at the requirement. The door out I believe is not a fire escape so unclear why this was a requirement and why allowed in the first instance.

I thank you all in advance for your time and consideration of this application and its consequences.

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**From:** Euan Fraser West  
**Sent:** 09 December 2015 00:10  
**To:** PI  
**Subject:** Planning Application 151773-Erection of (A) glass balustrade at the West side terrace, first floor, rear of Chester Hotel (Retrospective)

Dear Sirs,

I object to the above planning application for the following reasons

1. It cannot be considered 'essential' as claimed by the applicant as this would mean all flat roofs would be required to have a balustrade.
2. There is a history to this terrace and this is a stealth process to obtain planning permission for a balcony that will allow the hotel to use it for patrons. This balcony was already recommended for refusal in a previous planning application that was withdrawn by the applicant on the day that it was being put in front of the planning committee. A similar process was followed by the applicant for another part of the balcony under an application for a certificate of lawfulness which was granted by the council planning department.
3. It is a retrospective planning application - see further comments below regarding retrospective applications.
4. this is the third attempt at obtaining planning permission - the other two being withdrawn by the applicant.

Earlier this year a retrospective application was refused by the council planning committee for modifications to the Crombie Halls at Aberdeen University with Councillors determining a 'precedent' for such work will not be set due to the retrospective nature of the application (reference P&J 21st September 2015). If this application is granted then it will set the same 'precedent' that was not accepted by Councillors for another retrospective application. Furthermore the applicant has now submitted a series of retrospective applications and as a simple matter of principle it should be refused. It is a waste of scarce public resources and unfair on applicants that submit planning applications in the proper manner and wait for approval before commencing their building work.

In the supporting statement accompanying the application the applicant is equivocal about the future use of the side terrace. On the one hand in paragraph 2.2 it is stated that the applicant has no **"current plans"** for use other than use by hotel staff and contractors undertaking cleaning and maintenance activities. On the other hand in the same paragraph the possibility of an alternative use is specifically alluded to. The applicant undertakes to **"discuss"** any such alternative use with the Council. However I am also aware that that the Council previously stated formally in the certificate issued on 1 July 2015 in respect of Application P150763 (relating to outdoor dining and hospitality use) that the certificate issued does not apply to the area of terrace to the west side of the first floor dining area use of which remains **"unauthorised"**. In its report on that particular application the Council stated that it did not accept that a blanket right exists to use the roof of the hotel for trading or operational purposes. I would agree with that position and would accordingly submit that, given the Council's previously stated position, the use of the west (side) terrace for outdoor dining and hospitality would require the submission and granting of a further planning permission authorising such use. The applicant's statement in paragraph 2.2 conveys the impression that the applicant might not be inclined to accept that proposition.

In this particular case therefore - given the background above narrated - I would suggest that, if the current application is to be granted, it would be appropriate for the Council to impose a condition prohibiting any trading or operational use of the west (side) balcony (other than to permit its cleaning and maintenance). Such a condition could be imposed under the powers available to the Council in terms of Section 41(1)(a) of the Town and Country Planning (Scotland) Act 1997 which permits the planning authority to impose conditions on the grant of planning permission **"for regulating the development or use of any land under the control of the applicant (whether or not it is land in respect of which the application was made)....so far as appears to the planning authority to be expedient for the purposes of or in connection with the development authorised by the permission."** In my submission there is a sufficient connection in this case. It would be expedient for the Council to impose such a condition to safeguard against the possible mischief of any noise nuisance or any other diminution of amenity to neighbouring properties by reason of any intensification or alteration in the pattern of use of the west (side) terrace which might be associated with any retrospective approval of the installation of the balustrade. Such a condition would also, in my submission, pass the six tests imposed by Circular 4/1998 - namely it would be necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects.

Health and safety of staff and contractors are cited by the applicant as rendering it "essential" that the planning permission be granted. I would however submit that it can readily be inferred from the recent planning history of this property (and in particular from the sequence of retrospective applications and the previous enforcement action relating to the above property) that the applicant's ultimate intention is for the west (side) terrace to be used by hotel guests. This particular application appears to me to be the latest in a series of applications aimed at securing that ultimate end result.

I am not convinced that the balustrade is essential. It is noted that the current use of the west side terrace is for use by hotel staff and contractors undertaking cleaning and maintenance activities. It is of course accepted that this is a flat roof and that health and safety considerations therefore undoubtedly arise in relation to its cleaning and maintenance. However - is the applicant seriously asking the Council to accept that the construction of a balustrade is the only solution in such circumstances and that there aren't any alternative means of securing the safety of employees and contractors? If the applicant's arguments were to be followed to their logical conclusion they could be taken to justify, on health and safety grounds, the erection of a balustrade on the perimeter of any flat roof.

My principal contention is therefore that it is not essential that the application be granted.

Best regards,

Euan West

Development Management  
Planning and Sustainable Development  
Aberdeen City Council  
Business Hub 4  
Marischal College  
Broad Street  
Aberdeen  
AB10 1AB

Date: 2 December 2015

Our ref: CAWES.18.1

Your ref: P1151773

Direct tel: [REDACTED]

E-mail: [REDACTED]

## **BY EMAIL AND POST**

Dear Sirs

**Objection to Planning Application Reference : P151773**  
**Retrospective application for planning permission: glass balustrade, west (side)**  
**terrace, first floor, rear of Chester Hotel, 59-63 Queens Road, Aberdeen**  
**Our client : Alan West**

We act on behalf of the Alan West who lives with his family at the above address directly neighbouring the application site on its south side.

On behalf of our client we hereby object to the above planning application.

Health and safety of staff and contractors are cited by the applicant as rendering it "essential" that the planning permission be granted. Our client would however submit that it can readily be inferred from the recent planning history of this property (and in particular from the sequence of retrospective applications and the previous enforcement action relating to the above property) that the applicant's ultimate intention is for the west (side) terrace to be used by hotel guests. This particular application appears to our client to be the latest in a series of applications aimed at securing that ultimate end result.

Our client is not convinced that the balustrade is essential. It is noted that the current use of the west side terrace is for use by hotel staff and contractors undertaking cleaning and maintenance activities. It is of course accepted that this is a flat roof and that health and safety considerations therefore undoubtedly arise in relation to its cleaning and maintenance. However - is the applicant seriously asking the Council to accept that the construction of a balustrade is the only solution in such circumstances and that there aren't any alternative means of securing the safety of employees and contractors? If the applicant's arguments were to be followed to their logical conclusion they could be taken to justify, on health and safety grounds, the erection of a balustrade on the perimeter of any flat roof.

Our client's principal contention is therefore that it is not essential that the application should be granted.

Should the Council however be minded to grant this application on the basis that that it considers that there are insufficient grounds to sustain the refusal of the application then the question of conditions would arise.

Exchange Tower  
[REDACTED]



In the supporting statement accompanying the application the applicant is equivocal about the future use of the side terrace. On the one hand in paragraph 2.2. it is stated that the applicant has no "current plans" for use other than use by hotel staff and contractors undertaking cleaning and maintenance activities. On the other hand in the same paragraph the possibility of an alternative use is specifically alluded to. Our client notes that the applicant undertakes to "discuss" any such alternative use with the Council. However our client is also aware that that the Council previously stated formally in the certificate issued on 1 July 2015 in respect of Application P150763 (relating to outdoor dining and hospitality use) that the certificate issued does not apply to the area of terrace to the west side of the first floor dining area use of which remains "unauthorised". In its report on that particular application the Council stated that it did not accept that a blanket right exists to use the roof of the hotel for trading or operational purposes. Our client would agree with that position and would accordingly submit that, given the Council's previously stated position, the use of the west (side) terrace for outdoor dining and hospitality would require the submission and granting of a further planning permission authorising such use. The applicant's statement in paragraph 2.2 conveys the impression that the applicant might not be inclined to accept that proposition.

In this particular case therefore - given the background above narrated - our client would suggest that, if the current application is to be granted, it would be appropriate for the Council to impose a condition prohibiting any trading or operational use of the west (side) balcony (other than to permit its cleaning and maintenance). Such a condition could be imposed under the powers available to the Council in terms of Section 41(1)(a) of the Town and Country Planning (Scotland) Act 1997 which permits the planning authority to impose conditions on the grant of planning permission "*for regulating the development or use of any land under the control of the applicant (whether or not it is land in respect of which the application was made)....so far as appears to the planning authority to be expedient for the purposes of or in connection with the development authorised by the permission.*" In our client's submission there is a sufficient connection in this case. It would be expedient for the Council to impose such a condition to safeguard against the possible mischief of any noise nuisance or any other diminution of amenity to neighbouring properties by reason of any intensification or alteration in the pattern of use of the west (side) terrace which might be associated with any retrospective approval of the installation of the balustrade. Such a condition would also, in our client's submission, pass the six tests imposed by Circular 4/1998 - namely it would be necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects.

We should be obliged if you would acknowledge receipt of this objection and confirm that it will be taken into account in the determination of this application.

Yours faithfully

  
Craig Adamson  
Head of Planning Scotland