

CHAPTER 8

The Relevance of Planning Evidence

8.1 On behalf of the applicant, Mr Gotts stated that planning considerations are relevant to the Inquiry. There is considerable overlap in the considerations relevant to planning and SMC.

8.2 Particular reference was made to *NPPG 5* which advises that planning authorities should ensure that archaeological factors are as thoroughly considered as any other material factor in both the development planning and the development control process. The criteria which planning authorities should apply in considering planning applications affecting SAMs include the impact on scheduled monuments or the integrity of their settings

8.3 Reference was also made to *PAN 42*, which provides direct advice on the handling of archaeological matters within the planning process. The clear implication is that planning considerations are relevant to the setting of a SAM. That where possible, arrangements will be made to conjoin planning inquiries and SMC inquiries was stated to be a reflection of the interaction between each.

8.4 The witness asserted that in the Rowallan Castle Inquiry Decision of 31 January 2001 HS acknowledged, specifically in relation to SAMs, that wider planning, economic and environmental considerations are relevant. He also drew upon the judicial review in the Rose Theatre Trust case where considerations relevant to scheduling were held to include cost/compensation issues and market need, market demand and any other planning considerations or planning consequence.

The Planning Case

8.5 Mr Gotts rehearsed the planning submission presented to HC. The proposals accorded with adopted local plan policy which specifically encourages the restoration of Castle Tioram in sympathy with its architectural and historic integrity. The structure plan promotes the preservation of the Highlands' historic buildings through "productive and appropriate use".

8.6 *The Memorandum of Guidance on Listed Buildings and Conservation Areas* notes that the best use is usually the use for which the building was designed and that wherever possible, the original use, particularly if residential or ecclesiastical, should continue. Similarly, *NPPG 18* promotes the view that securing a viable use is one of the most effective means of conservation.

8.7 Mr Gotts contended that contrary views, the most important of which is the specialist conservationist approach, which argued in favour of preservation in situ, refer mainly to listed buildings rather than ancient monuments. *The Scheduled Ancient Monuments Guide for Owners* states that "Scheduling is usually applied to monuments which have passed their day, and are unlikely ever to be used again in anything like their original form". The proposal in relation to the ancient monument at Castle Tioram, could not have been anticipated and there is no reason why the principle of use restoration should not apply.

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8.8 Within Ardnamurchan and Morvern, the castle and island are acknowledged to make a significant contribution to tourism and the conservation plans are designed to ensure that an important role is maintained through much enhanced interpretation and presentation. The witness referred to arrangements for guided tours becoming available throughout the season, but with special emphasis on the shoulder months, in the interests of extending the season.

8.9 The *Scheduled Ancient Monuments Guide for Owners* prompts consideration of “whether damage might be caused by the number of feet passing over it and whether or not access can be arranged without inconveniencing local residents”. It is submitted that the archaeological importance of the island, the limitations of the Dorlin road and the restricted capacity of the tourist infrastructure, point towards the adopted solution.

8.10 Mr Gotts stated that the enhancement of employment opportunities is an objective of all plans and policy guidance, and there is general agreement that the proposals for Tioram are wholly supportive.

8.11 The development plan supports the sustenance and enhancement of Gaelic culture. This would be supported by the project in a number of ways, including greatly improved interpretation and understanding of Tioram’s cultural heritage, the strengthening of Clan links and the accommodation of local cultural events.

8.12 The specialist approach to conservation would take one to the conclusion that, by pursuing a scheme of restoration, combined with elements of reconstruction and adaptation, the integrity of the archaeology is threatened, thus rendering the project unsustainable. Those components of the scheme are embraced in the *Burra Charter’s* definition of conservation. Restoration is the most effective means of conserving Castle Tioram and in that context, the re-establishment of a long term use creates a sustainable and durable solution.

8.13 Although the application site is surrounded by areas protected by nature conservation designations, including SSSIs and Special Areas of Conservation (SAC) (including a MCA), none is affected by the proposed development.

8.14 During construction, the impact of site works and the enclosure of the castle in protectively clad scaffold, would be significant but temporary, and not dissimilar to any major works of consolidation. While there would be changes in the longer term with the reinstatement of the roof, a new gable and tower and signs of habitation e.g. internal domestic lighting (but no floodlighting), the visual effects would be limited to a very restricted area. The protection of landscape setting is respected by the proposed development. This is not disputed by SNH, nor did it merit comment by HS.

8.15 The impact of the proposals upon the scheduled monument is central to the application for SMC. By the act of passing the planning decision back to the council, Scottish Ministers have effectively acknowledged the acceptability of the application in land use planning terms.

The Economic Benefits

8.16 The project offers potentially significant economic benefits which are of particular relevance and importance in an area, which is relatively fragile in economic terms. In Lochaber, by September 2000, the unemployment rate was down to 2.1% from a peak in recent years of 8.6% (1993). Comparable information is not available for the immediate area, although between 30 and 40 were registered unemployed in September 2000. It is estimated that this equates with an unemployment rate of around 5.5%.

8.17 The scheme is estimated to generate about 100 man-years of total employment over the period of construction. Approximately 60% of the jobs would be in non-specialist general construction trades and the remaining employment would be much more specialised e.g. stonemasons and harlars. These skills would probably have to be imported from outwith the Travel to Work Area (TWA). The applicant would involve positive discrimination in favour of local firms and suppliers during construction, provided that the necessary quality standards are met, and that the price is acceptable. There would be a formal training scheme, through which up to four stonemasons and four joiners would be trained. There would be good long term demand for these skills.

8.18 The direct employment effects of the project in the long term will not be significant but there would be wider impacts on the local economy, and in particular the tourist economy:

- The restored castle, its archives, Clan Room etc has the potential to become the focus of special-interest holidays.
- Glenuig is identified as a potentially important base for boat trips to explore the castle and its surroundings from the water.
- The stimulation of clan interest would unquestionably bring additional foreign tourists (the highest spenders) to the area.

Among less tangible benefits the project would be a significant vote of confidence in the future of the Highlands and of the Moidart area.

The Scheduled Monument Consent

8.19 Mr Gotts considered the application to be extraordinary. Its circumstances could not have been anticipated and its nature is such that precedent is not an issue. The application should therefore be treated as an exceptional development, as allowed for in paragraph 17 of *NPPG5*. The application was extraordinary because:

- there is no point in pursuing the necessary consents unless one is prepared to fund serious and wide ranging research and investigation, in an effort to justify and demonstrate the validity of a proposal which runs counter to conventional opinion;
- the inevitability of a public inquiry somewhere in the application process, adds significantly to the costs already incurred;
- all of these costs are significant, speculative and therefore at risk;
- if the consents are secured, the applicant would then be permitted to spend vastly more and at the conclusion of, there would be a finished scheme, the value of which in market terms, is worth only a fraction of the cost; and,
- the owner would carry significant long term responsibilities without even exclusive and peaceful enjoyment because of public responsibilities.

8.20 It was stated that it is a notable feature of scheduled monuments that, other than through the 1979 Act and the development plan, guidance on the treatment of archaeology of national importance is non-statutory, and in the case of charters and covenants, primarily illustrative of “best practice”. Addressing the “best practice” of the Stirling Charter it was stated that:

- “The action needed to secure the survival of our built heritage for the future” would be the product of the application. It would create benefit and enjoyment for successive generations (Article 1).
- It is not considered that the proposal would result in the loss of built heritage. The adopted solution calls for the incorporation of the existing built heritage into the overall scheme of conservation. That can be achieved successfully and in a reversible manner. The option of consolidation of the ruin and its preservation would contribute little to the enhancement of understanding and would face long term uncertainty in terms of viability (Article 2).
- In consideration of the HS draft policy on *Sustaining the Historic Environment* it was stated that there are three potential options (Article 3):
 - (i) To do nothing would not be a sustainable solution, although the below-ground archaeology would remain in situ.
 - (ii) The second option, consolidation of the ruin, was stated to be HS’s favoured approach. To base the entire conservation approach on misinterpreted, or at best unauthenticated, evidence (the firing of the castle), would be unsustainable and would merely perpetuate a myth. If that “event” is found to have a highly questionable pedigree, the conservation strategy is seriously threatened and is contrary to the *Burra Charter*.
 - (iii) The third option, conservation through restoration, was stated to accord with the definition offered in Article 1 of the *Burra Charter* representing an appropriate balance between conservation in the narrowest sense and change, consistent with the desire to restore an active life for the castle, which should endure far into the future. It is an appropriate adaptation of an historic building to a different need. It would considerably enhance future understanding; present a different, but no less enjoyable, set of aesthetic qualities within its wider setting; and be appreciated. The application scheme offers the most financially sustainable approach. All of the funds are privately available and would be legally committed to the conservation scheme and high quality on-going maintenance and stewardship would be ensured. It would not be financially sustainable to proceed without a high degree of short and long term funding certainty. If the finance is available to HS, far better that it be directed towards Mingarry Castle.
- The proposed scheme of conservation would be far more successful in achieving these objectives than would any alternative. There is conflict in the HS position, which preaches the importance of sensory perceptions and seems to rank conjecture as highly as knowledge and understanding (Article 4).
- The cultural significance of Tioram has never been better explained than through the application which adopts a scholarly and impartial approach to the interpretation of the castle’s history in all phases of development. While the conservation approach adopted in the application exceeds the levels of intervention expressed in the conventions of conservation, in the exceptional circumstances of Tioram, that is a wholly acceptable approach, representing a highly durable conservation solution, which offers a great many tangible and intangible benefits. The project is carefully

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considered, authoritatively based, properly planned and executed, and is (where appropriate) reversible (Article 5).

- Article 6 raises no issues relevant to the application.

8.21 It was concluded that the application closely accords with the principles of the *Stirling Charter* and that any deviation is fully justified by the exceptional circumstances of the conservation opportunity presented by the application.

Historic Scotland's Reasons for Recommending Refusal of Scheduled Monument Consent

8.22 These were addressed as follows:

(i) "The application proposals would have a damaging effect on the historic fabric of the Scheduled Monument and on Cultural Significance"

- Mr Gotts suggested that aesthetic and historic values would be of greatest relevance. HS emphasises the former in particular, in the belief that this aspect has been inadequately addressed by the applicants. It is clear that through consultation, the study team gained an awareness of the sensory issues. The importance of preserving the peace and tranquillity of the area and site was recorded, as was the high level of association of the ruin with the Jacobite Uprising. There is no implication in the application that peace and tranquillity would be disturbed in the long term. A restored Tioram would simply evoke different and no less positive sensory perceptions including spiritual uplift from a conservation scheme which represents a huge vote of confidence in the future of this Highland area.
- Visitor numbers to Eileen Tirim would not appear to have materially altered since the closure of the castle. The majority of visitors are generally observed to simply walk and/or enjoy the views and the atmosphere, without taking any special interest in any of the archaeology.
- HS's interpretation of Tioram's history, majoring on the firing of the castle in 1715 as the single most important event in its history and the single most important culturally significant event was stated to be inconsistent with Article 5 of the *Burra Charter* and Article 5.2 of the *Stirling Charter*. Firing is not disputed, but is of secondary significance, to be viewed within the wider context of the castle's history.
- Mr Gotts emphasised the potential of the project to enhance understanding of Tioram's cultural significance. The intention is to analyse, evaluate and publish all heritage and archaeological information about the castle and the island for the benefit of visitors, the local community and the academic community. The restored castle would play its role in the revival of the Gaelic culture, and the restoration of the clan links through the re-establishment of the Clanranald's spiritual home, would stimulate whole areas of interest previously dormant.

(ii) "The proposals for reconstructing the castle would produce a building which does not reflect any known historic form."

- Mr Gotts stated that research to date has been meticulous and carried out to the highest conservation standards. In the event of the application being

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allowed, the applicant's design team would work closely with their HS counter-parts.

(iii) "The application proposals would have an irreversibly damaging impact on the surviving fabric due to the structural work necessary, the introduction of modern services and the increased level of continuing maintenance that a modern dwelling would require."

- Mr Gotts submitted that the structural work associated with the application would not adversely impact on the surviving fabric any more than would the necessary response of a traditional conservation scheme. The range of uses proposed introduces the need for a number of additional requirements which would not have existed in the original building. A sensitively designed installation, where the vast majority of services are not apparent, would have little impact on cultural significance, and because of their low-key nature, the historic fabric.

(iv) "The proposals entail the almost total excavation of the below-ground archaeological remains on the island."

- It was stated that unmanaged access is causing erosion and damage to known historical remains and to more recent findings identified through the applicant's archaeological research programme. The investigative approach is essentially justified either on direct rescue grounds, or as a consequence of a balanced evaluation. The adopted programme would be for agreement with HS. The consolidation option of consolidation as a ruin would cause as much basic disturbance to sub-surface features and deposits in the interior of the castle and its immediate surroundings.

(v) "Castle Tioram and Eilean Tirim are the focus of an NSA, and they have cultural importance as a ruin in the landscape."

- It was stated that the relationship of the castle and the island to the NSA is a matter for SNH and the planning authority. Their role as a "focus" of the NSA is disputed, given that they occupy a restricted visual envelope within an NSA embracing thousands of acres. SNH concluded that there was no risk of damage to the NSA and made no objection to the application. It was maintained that the restored Tioram would also have cultural importance in the landscape, quite capable of generating just as many, but different, positive sensory perceptions.

(vi) "Much of the special appeal of Castle Tioram derives from its association with the 1715 Rising and its destruction at that time."

- The evidence of the applicant's historians, does not accept this reason for opposing the application.

(vii) "There is no specific provision for the long term future maintenance of the building once restored and a lack of clarity concerning its present and intended future ownership and proposed use."

- It was stated that ownership and the proposed use are clearly explained in the *Conservation Strategy* and that the draft Section 75 Agreement explains

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how the delivery of the full conservation programme would be secured. It also explains the long term arrangements, which would be secured by continuing community liaison and influence over the future governance of the castle.

Conclusions

8.23 Mr Gotts concluded by stating that he does not accept that the issues relevant to the planning and SMC application processes are quite separate. Given the degree of overlap between the issues relevant to the application processes, it was contended that there would also be a strong degree of logic to the Scottish Executive's support for the granting of SMC.

8.24 The application is quite extraordinary particularly in the willingness to commit vast amounts of private investment to a project, the market value of which would be a relatively small fraction of the cost. It should be treated as exceptional development as referred to in Paragraph 17 of *NPPG 5*. The circumstances of the application are such that there is little risk of precedent.

8.25 It was concluded that that the application closely accords with the principles of the *Stirling Charter*. It is accepted that it exceeds the levels of intervention considered appropriate by convention, but this should be overcome by the many benefits of the proposal.

8.26 The "do nothing" approach is unsustainable as is the form of conservation favoured by HS. On sustainability grounds, it was concluded that the proposed approach is the clear preference. It closely follows the definition of conservation offered by the *Burra Charter*. It represents an appropriate balance between conservation in the narrowest sense and change, consistent with the desire to restore active life to the castle, and bring benefits to the area which should endure far into the future.

8.27 The approach offered by the application was stated to be the most financially sustainable in both the short and long term, with the added virtue of imposing no claim on the limited resources of the public sector.