

HISTORIC SCOTLAND BOARD

Extract of Minutes of Meeting 21st August 2006

Conference Room, Longmore House, Edinburgh

Those Present:

John Graham, Chief Executive
Peter Bromley, Director, Properties in Care
Malcolm Cooper, Chief Inspector
Marc Ellington, Non-executive Director
Ingval Maxwell, Director, TCRE
David McGibbon, Non-executive Director
Brian O'Neil, Director, Human Resources
Laura Petrie, Director, Finance
Sheila Terry, Non-executive director
Gordon Barclay, National Policy Team

In Attendance:

Louise Donnelly, Director of Casework, Inspectorate (Item 7)
Richard Fawcett, Principal Inspector (Item 7)
Aonghus MacKechnie, Principal Inspector (Item 7)
Tania Smith (Board Secretary)

7. Castle Tioram

7.1 The Chairman reminded the Board of the context of this item. An application for consent had been refused in 2002, the Agency had agreed in 2004 to discuss the scope for a new application, and the proposed assessment before the Board would, if endorsed, constitute pre-application advice.

7.2 Marc Ellington noted for the record that he had appeared at the inquiry speaking on behalf of the proposals put forward in the application for Scheduled Monument Consent.

7.3 Malcolm Cooper introduced paper HSB 19/06. He explained that following an inquiry in 2002 the Reporter had been clear in refusing the previous application for scheduled monument consent. He had personally re-examined the history of the previous application and had extensive discussion with the owners, their agents and other parties such as Highland Council. As previously agreed Historic Scotland had commissioned Geoffrey Stell to provide a new Statement of Cultural Significance which was conservation neutral. The owner and his representatives had agreed to this appointment, the brief for the study, and had commented on drafts of the report.

7.4 Malcolm Cooper noted that no application for consent had been submitted to the Board, and therefore any deliberations would be solely for the purpose of providing the owner with an indication of how he might wish to proceed. Malcolm Cooper reminded the Board that Historic Scotland's role in this context was to act on behalf of Scottish Ministers to make determinations on applications for consent under the Ancient Monuments legislation. It was appropriate in this context for Historic Scotland to offer pre-application guidance although

this must be necessarily general in nature. As with other pre-application advice, key considerations would have to be the implementation of the statutory and policy framework; the nature and significance of the monument; the impact on any potential risk to the monument and the Agency's duty to deal with cases consistently. Under existing policy and guidance the intervention associated with the introduction of residential accommodation could only be agreed if it was seen as achieving preservation of the monument consistent with the minimum necessary intervention, or if there were exceptional circumstances where the minimum necessary intervention may not be deemed the most appropriate approach. Noting that in his paper Malcolm Cooper had identified Fenton Tower as an example of a structure where exceptional circumstances justified more than the minimum intervention consistent with the preservation of the building, David McGibbon asked what the differences were between the Fenton Tower case and the possible proposals for Castle Tioram.

7.5. Malcolm Cooper confirmed that consent had been granted in 2000 to roof Fenton Tower and adapt it for residential use. Although Fenton Tower - by definition due to its inclusion on the schedule of ancient monuments - was of national importance, it was not of very high importance, as Castle Tioram was. Fenton Tower had survived well, and the degree of intervention necessary was therefore relatively limited, and the evidence to support it relatively clear. The smaller size of the building had necessitated intervention on a much more limited scale than that which would have to be undertaken at Tioram. Lastly there was a strong argument that conversion for residential use constituted the best option for the preservation of the monument, because Fenton Tower was unlikely to command sufficient priority for grant funding for repair work.

7.6 Marc Ellington pointed out that many buildings only survive because of intervention and said that our consideration should be not only the immediate preservation of the building but also its sustainable preservation and management. Historic Scotland could be vulnerable to accusations of inconsistency, given the decisions which had been taken on some previous applications for consent. Malcolm Cooper noted that the instances quoted were generally some way in the past, and that the possible proposals for Castle Tioram had to be considered on their merits, and against the current policy background.

7.7 Sheila Terry questioned the value of continuing with further deliberations if the situation had not changed substantively since the original application had been made. Marc Ellington agreed that it would have been useful to have had more firm proposals from the owner. Sheila Terry argued that a full scoping exercise and option appraisal might be necessary to inform the decision making process. She suggested that the owner should be allowed a period to reflect and respond to the implications of the Stell report.

7.8 The Chairman noted that the Board was dealing not with a potential planning application but with a potential Scheduled Monument Consent application. The Agency had agreed to offer pre-application advice on the basis of indications from the owner of their outline proposals, and the owner was pressing for an early response. Malcolm Cooper added that while in the planning system there was a presumption in favour of development, ancient monument legislation was presumptive in favour of the preservation of the ancient monument.

7.9 The Chairman invited the Board to agree that paragraphs 10 to 17 of HSB Paper 19/06 accurately set out the legislative, policy and guidance background against which possible

proposals for Castle Tioram case would have to be considered. **The Board indicated agreement.**

7.10 David McGibbon asked what reaction to the Stell report was expected from the owner. Malcolm Cooper replied that early comments from the owner had noted that questions remained over the phasing of the building sequence, and that the use of the term ‘exceptional’ to describe Tioram was not in their view conservation neutral. Malcolm Cooper did not think either point would significantly change Stell’s report or the conclusions he had drawn. The owner also felt that the comparative review in the Stell report was somewhat limited. Malcolm Cooper agreed with this and for that reason the Inspectorate had undertaken two comparative studies. The first of these analysed Stell’s peer group using the Ministers’ criteria for determining national importance for the purposes of scheduling ancient monuments (as laid out in Scottish Historic Environment Policy 2). The second analysis used the same criteria to analyse a wider group. Taken together with Geoffrey Stell’s conclusions these showed that within the group of nationally important scheduled monuments Castle Tioram had particularly high importance for west coast polygonal Scottish castles and through this for the understanding of Scottish history.

7.11 The Chairman sought the Board’s agreement that the statement given at paragraph 26 of Paper HSB 19/06, that ‘*Castle Tioram is arguably the most significant of the western seaboard polygonal castles when compared with its defined peer group or a wider secondary peer group*’ was soundly based, and that the Castle therefore had particularly high importance for the understanding of Scottish history. **The Board indicated agreement.**

7.12 Turning to the potential impacts of the possible proposals and the associated risks, the Board noted the assessment in paragraphs 27-44 of the paper. Marc Ellington said that a consolidated ruin with public access facilities still required intervention and some alteration of the monument, for example the introduction of hand rails. Ingval Maxwell asked whether the Inspectorate was satisfied that consolidation was the most appropriate route, since health and safety concerns could drive considerable intervention, which could be construed as constituting intervention on the scale of adaptation. Malcolm Cooper agreed that some degree of intervention was inevitable. He was satisfied however that on the basis of the available evidence the degree of intervention required in a conservation and repair scheme would still however be significantly lower than seemed likely as part of a scheme for adaptive reuse. **The Board noted this assessment.**

7.13 Moving to the overall assessment and the way forward, David McGibbon commented that action to resolve the current situation was highly desirable. He asked what other options were feasible if a scheme for adaptive reuse were not allowed. Sheila Terry asked what was known about the state of the building. Malcolm Cooper explained that a range of structural surveys had been carried out and that it had been established that the building was continuing to decline, with specific and urgent problems in, for example, the Kitchen block. He noted that an Historic Scotland architect had visited the site with the owner’s agreement but that they had queried the nature and conclusions of the resulting report and that therefore there would need to be further work to clarify the position. However, it seemed likely that there was a need for some urgent limited works to be followed by a longer term programme of consolidation on a rolling programme. Historic Scotland had offered to discuss an application for grant aid for repair work, and to improve interpretation, but the owner had shown no interest. Public access had been withdrawn for a period because the Council judged the building unsafe: he was unclear what access was currently possible, or what level of access

might be possible under any possible proposals. Sheila Terry commented that the level of access was important in assessing public benefit, because it would determine the level of benefit to the local community. The Chairman noted that if there were good public access there was scope for collaboration with the local community, the Council, the local enterprise company and others to develop an access and visitor facility in the vicinity of the Castle.

7.14 Sheila Terry noted the clear nature of the Chief Inspector's recommendations. David McGibbon said that he was content with the way the issue had been handled by the Board and the Inspectorate and convinced that all due consideration had been given to the possible proposals with objectivity and fairness. Marc Ellington said that in his view the arguments were finely balanced, and that there were attractions in seeing the Castle reoccupied, but he was satisfied with the very thorough assessment which had been undertaken. The other Board members indicated that they accepted the assessment in the paper.

7.15 The Chairman invited the Board to indicate its views on the conclusions and recommendations of the Chief Inspector's report, Paper HSB 19/06. **The Board indicated its unanimous agreement and endorsed the recommendations of the paper.**