

CHAPTER 19

Closing Submissions on behalf of Historic Scotland

History of the Monument

19.1 **Summing up on behalf of HS, Mr Brodie submitted** that the applicant had carried out a commendably detailed survey of the structure of the castle and the historical evidence relating to it. The applicant's evidence as to the constructional history and general history of the castle until 1715 were not the subject of dispute. Rather, HS considered that the applicant had failed to consider and assess the significance of the post 1715 history of the monument. The inquiry was referred to the evidence of Professor Lenman. Regard should be had to the works of consolidation carried out in the 1880s by the owners of Dorlin; in the 1920s under the auspices of HM Office of Works; and in 1966 by the Ministry of Public Buildings and Works. It was submitted that regard should be had to the evidence concerning the artistic and literary associations with the monument (eg Sandby, McCulloch and McCleay). As there were no roads to the castle at that time it is of note that McCulloch got to the site and the fact that McCleay chose to use Castle Tioram suggests that it had a reputation. Other artistic images have placed emphasis on the connection with the landscape and the rugged, natural quality of the castle.

Present Use of the Monument

19.2 It was submitted that the applicant failed to appreciate that the castle presently has a use. It is physical evidence of the past. It is aesthetically pleasing, being valued for its contribution to the landscape and the experience of visiting the area. It is a tourist attraction and recreational facility. It arouses memories of the Gaeltacht. It has been used as a setting for concerts and has served as a film set. That the monument presently has a use presently is consistent with paragraph 6.3.1 of BS7913: 1998.

Structural Condition of the Monument

19.3 The structural condition of the monument is relevant to:

- the issue of how much physical intervention is required to ensure stability;
- the extent to which the structure would be capable of bearing the new works proposed in the application; and
- the degree of work that would be required on the monument to implement the proposals of the application.

The relevance of the first point is illustrated by considering the general advice provided in the international charters and national guidance, namely, that intervention should be the minimum required. Given that the proposed reconstruction involves consolidation as an initial step, the castle and its supporting rock are capable of being the subject of the less interventionist approach involved in a consolidation strategy. Wall Movement Monitoring revealed no structural instability of note. The structural stability of the interior walls indicates that the Castle is well suited to a consolidation strategy. Floors and a roof are not required to provide structural stability for the interior walls. To the extent that provision of such stability is required, that can be achieved by the use of discrete, non-ferrous ties. The walls were supporting their weight and resisting wind forces.

Closure of the Monument

19.4 It was submitted that the council's decision to close the monument, which followed correspondence initiated by the applicant, should not be taken as strong evidence of its stability and, in particular, should not be taken as strong evidence of its condition in comparison to other monuments.

Competing Evidence as to the Structural Stability of the Castle

19.5 It was submitted that the structure is not in the precarious condition described by the applicant. The views of those opposed are represented as coming from superficial inspections only. Nevertheless, each of those witnesses has long and extensive experience in dealing with ancient buildings and ruins. The applicant has not led evidence to the effect that the castle is likely to suffer wide-spread catastrophic collapse. Attention is drawn to the observations in HS 15 to the effect that built masonry is often more inherently stable than may appear on first sight. It was submitted that the views of HS's witnesses, and those of SPABiS, on structural stability and the degree of intervention required to maintain structural stability should be accorded weight. Mr Webster, under cross-examination stated that his calculations had been revised to take account of the "panelling" effect that was contributing to a greater degree of structural support than had initially been appreciated.

The Proposals

19.6 It was submitted that the proposed works would create a private dwelling, suitable for modern living standards, in the shell of the castle. Many aspects of the original design are not known. Many aspects of the final design are presently unknown, particularly in the area of the wallheads and chimneys. The final plan and design for the roof structure has not been developed. The design proposals will not result in an accurate representation of the castle as it was in 1650, the primacy date set by the applicant. Deliberate design solutions such as not harling the curtain wall will, by the applicant's admission make the finalised form different from the original form. The essential difference between HS and the applicant is that HS is opposed in principle to the conversion of a historical monument into what it perceives to be a modern dwelling approximating in form to that of its condition in 1650. This would convert the castle from an accurate historical record of seven hundred years of history into a 21st century statement of what the past was thought to resemble.

The Public Local Inquiry - Purpose and Terms of Reference

19.7 *Submission:*

"It falls to Scottish Ministers to determine whether SMC should be granted in respect of this Application. This Inquiry is intended to assist in determining that question. It is submitted that the issues relevant to that determination are primarily identifiable from the terms of the 1979 Act. In making that submission it is argued that central to application of the Act are the following principles or practical consequences of its terms: (i) that the Monument is accorded statutory protection because it is recognised as being a monument of "national importance"; (ii) that the statutory protection regime envisages such minimal level of intervention as is consistent with preservation of the Monument; (iii) that the control regime falls to be administered by Scottish Ministers and not by local planning authorities."

19.8 It was asserted that it is rare for an application for SMC to proceed to inquiry, and even rarer for an inquiry on SMC to be held independently of an application for planning permission. Consideration of the Act is the appropriate starting point to what is relevant to determination of the application.

The 1979 Act

19.9 *Submission:*

“It was submitted from consideration of the 1979 Act that: (i) the matters relevant to this Inquiry are determined by reference to the 1979 Act alone; (ii) the 1979 Act indicates an approach consistent with a principle of limited intervention in respect of SAMs.”

19.10 There is no detailed guidance in the Act on how SMC applications ought to be assessed. The following should be noted:

- (a) The 1979 Act affords the monument a special, and protected, status: i.e. it is regarded as being of “national importance”. As the Act applies throughout the UK, it must follow, despite devolution, that “national” is to be read as of United Kingdom importance. It follows that any works proposed to the monument will be works to a monument of “national importance”.
- (b) Separately, it is submitted that the provisions of the Act are consistent with principles of minimal intervention: i.e. such steps as are necessary for the preservation of the monument that is held to be of “national importance”.
- (c) Enforcement of the protection regime is entrusted to central government and not to local government; and
- (d) No subordinate legislation has been promulgated under the Act nor have any government policy statements or guidance been issued under specific reference to the Act. Therefore, no authoritative guidance (i.e. government issued guidance) is available to the terms of the Act other than is found in the Act itself.

Attention was drawn to the preamble to the Act, particularly references to “preservation”, and the apparent value accorded to “preservation”, of matters of “archaeological or historical interest”. The Act affords specific protection to scheduled monuments. It is to be noted that decisions on granting SMC fall to Ministers and no one else: it is not a matter for local planning authorities.

19.11 It was submitted that the following provisions of the Act are consistent with a principle of limited intervention in respect of scheduled monuments:-

- the reference in the preamble to “preservation” of matters of historical importance;
- the provisions for payment of compensation for refusal of scheduled monument consent relate to maintenance of the status quo and not in respect of development: see s.7(2);
- the powers of compulsory acquisition are afforded “for the purpose of securing its (i.e. the ancient monument’s) preservation”.
- the statutory provisions relating to guardianship of ancient monuments are framed with an emphasis on minimal intervention. The Act provides that those, in Scotland, with any heritable interest in an ancient monument may seek to constitute the Scottish Ministers or the local authority guardians of the monument: see s.12 of the Act. Where constituted guardians, the Ministers or the local authority are

charged with the duty of maintaining the monument: section 13(1). “Maintenance” is defined to include “fencing, repairing, and covering in, of a monument and the doing of any other act or thing which may be required for the purpose of repairing the monument or protecting it from decay or injury, and “maintain” shall be construed accordingly”: section 13(7). This definition is consistent with a minimal intervention approach.

- the provisions which, specifically, may be included in any agreement entered into by Scottish Ministers with the occupier of any ancient monument include “the maintenance and preservation of the monument and its amenities”: see section 17(4)(a). “Maintenance is as defined above: section 13(7).
- the powers afforded to the Scottish Ministers to make funding available are for the costs of preservation, maintenance and management: section 24(2) and in respect of local authorities at section 24(4). No expenses are to be incurred by the Scottish Ministers or any local authority in respect of any monument that is occupied as a dwelling house by any person other than a person employed as the caretaker: section 24(5).

Planning and Listed Buildings Legislation

19.12 *Submission:*

“Little or no guidance can be obtained from the planning system in respect of an application for SMC. Great care should be exercised in assessing the value or weight to be given to planning policy or planning related evidence for it comes from a separate statutory regime. Consideration of such matters risks leading the decision-maker into consideration of merits that are irrelevant or immaterial to the consideration of whether or not to exercise her/his discretion to grant SMC.”

19.13 The applicant appears to argue, that planning legislation and listed buildings legislation, together with subordinate legislation are of direct relevance to the application. This argument is almost entirely rejected by HS, whilst accepting that some matters pertinent to planning may be of some interest in considering whether to grant an application for SMC.

19.14 The Town and Country Planning (Scotland) Act 1997 (TCP(S)A 1997) contains no specific reference to ancient monuments or scheduled monuments. Indeed, there is nothing of apparent relevance to ancient monuments, SAMs or the consent process for works thereto. The 1997 Act is concerned with land development, land use and change. This is not the focus of the 1979 Act which is concerned with the preservation and presentation of monuments of national importance. No weight is given to development in the 1979 Act. It stands alone, and its purpose is independent, from the TCP(S)A 1997.

19.15 The Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (the Listed Buildings Act) is concerned with the historic environment but does not provide a relevant interpretative tool as to how the 1979 Act should be applied. It is specifically disappplied to historic buildings that are scheduled under the 1979 Act. The Listed Buildings Act is designed to work with the planning system to balance the needs of land development and use with those of conservation. The 1979 Act includes no clear requirement to balance other interests: its sole concern relates to matters of conservation. The Listed Buildings Act is operated by local planning authorities unlike the 1979 Act. The Listed Buildings Act covers buildings that are still in active use as dwellings or worshipping churches: the 1979

Act does not. The Listed Buildings Act covers buildings of local and regional importance as well as buildings of national importance. The 1979 Act only covers buildings of national importance.

19.16 There is some overlap between scheduling and listing as explained in the *Memorandum of Guidance on Listed Buildings and Conservation Areas 1998* at paras. 1.24 and 1.26 thereof:

- para. 1.25: “Most scheduled monuments are archaeological sites or ruined buildings while most listed buildings are occupied, but there is an area of overlap in respect of, for example, bridges, uninhabited castles...,”
- para. 1.26: Every effort is being made to minimise the extent of overlap between listing and scheduling. A degree of overlap will nonetheless remain, and planning authorities are asked to check whether listed buildings in respect of which applications are referred to them and which seem to fall within the main categories for scheduling... are in fact also scheduled.”

Planning Guidance

19.17 HS accepted that those NPPGs which focus on the treatment of the historic environment will be of relevance, particularly where they provide specific guidance on SAMs. However, it was submitted that little relevant guidance is provided by either NPPG5 or NPPG18.

19.18 It was submitted that NPPG 5 simply acknowledges that which is recognised under the 1979 Act (that the monument is of national importance) and makes the point to planners that this status has to be remembered in making decisions about development. Where a development would have an adverse affect on the monument or to its setting (that is the area outside the scheduled area), then it should not be permitted by the planners unless there are exceptional circumstances. For example, where the benefits of the proposed development would be of such importance (national in scale) that exceptional circumstances prevail. This guidance does not provide any assistance in deciding upon an SMC application.

19.19 NPPG 18 must be interpreted in the context of listed buildings legislation. That is primarily about control of works on buildings in use, maintaining such in use - not the focus of 1979 Act.

19.20 It was submitted that decisions as to conservation strategy are not related to land development, but rather to the issues identified and discussed in the considerable body of evidence led on conservation philosophy. Guidance on SMC will come from consideration of the 1979 Act and the evidence of those versed in conservation ethics.

Issue for Determination and Relevant Guidance Thereto

19.21 It was submitted that the question for determination by Scottish Ministers is whether this application should be granted consent, in terms of the 1979 Act. The absence of any other proposal to carry out works should not count in favour of the application. Fears for the structural future of the castle, in the apparent absence of another proposal to carry out repairs, should not influence the decision; the structure of the 1979 Act is concerned with the granting of consent to the particular works proposed. One cannot assume that

refusal of this application will preclude the possibility of another proposal. Similarly, the promise of funding in relation to this proposal should not, of itself, render the proposed works meritorious.

19.22 Other legislation is irrelevant to whether consent should be granted under the 1979 Act. The planning system is separate and planning consent has been granted. Such a position is consistent with the Ministers' decision not to call-in the planning application and to send SMC, alone, to Inquiry. That is factual background. It is not determinative of whether consent should be granted under this Act. The applicant's approach blurs the independence of the 1979 Act from other legislation and risks consideration of irrelevant material.

19.23 HS submitted that, in answering the question of what is the most appropriate conservation solution for Castle Tioram, the inquiry should consider whether the proposals are of national importance? It was submitted that they are not. Reference was made to the Report produced following the Rowallan Castle and Estate public local inquiry which states, "given the national importance of scheduled monuments, it would appear reasonable that any development permitted would require to be justified in the national interest".

Conservation Philosophy and Guidance

19.24 *Submission:*

"There is a widely recognised and accepted body of international and national guidance on conservation: this forms a philosophy or code of ethics that can and should be applied to conservation decisions. That body of knowledge advocates that the innate values or cultural significance of any monument must be conserved. As a general principle restoration (which is here proposed) will only be justified where that approach is necessary for the survival of the monument. There may come a point that the value of the monument cannot be saved by intervention and the eventual decay of the monument is preferable to intervention that will rob the body of its soul. Conservation of the value of the monument is the paramount concern."

19.25 It was submitted that there was general agreement between the parties as to the value of the international charters and national charters referred to in evidence. Such dispute as existed as to the relevance of documentary materials related to the relevance of NPPGs.

19.26 Mr Drummond was not presented, and did not give evidence to the effect that he was a specialist conservation architect engaged in the preparation of conservation and management strategies for historic buildings. His plans are not finalised. It was submitted that he was partisan in his approach to giving evidence (an insistence on the likelihood of sash and case windows, against persuasive contrary evidence, demonstrated an unnecessary tenacity). There was little or no readiness to concede that any other conservation strategy might be appropriate. This approach may be indicative of what seems to have been the original instruction of his client. Reference was made to ARP Lorimer's letter of 6th October 1997 to HS in which it is stated that "Our client is fully aware of the significance of the building and site and is totally in sympathy with the need to proceed in the proper manner. It is his intention to live in the property on completion of the works."

19.27 It was submitted that Mr Ellington was an unhelpful witness adopting what were submitted to be extreme positions in evidence: of the position he adopted in respect of the “educational value” of seeing a modern kitchen in a reconstructed historical monument. He gave no evidence of having undertaken an assessment of cultural significance or having, personally, developed any conservation strategies for implementation in historic buildings, far less SAMs. His experience was largely centred around his own home, Towie Barclay.

19.28 Professor McKean’s evidence was submitted to be of little, if any, relevance to determination of whether SMC should be granted. He failed to address what guidance is relevant to assessment of the application and he did not enter into an analysis of the applicant’s approach to devising its conservation strategy. Rather he made a subjective judgment as to the merit of the proposals largely based on his view that finding a use compatible with the spirit of the building’s original purpose is a desirable goal - a view more appropriate to a listed building that is in use or has shortly fallen out of use. His consideration of the European perspective failed to draw the distinction, material to the UK, between (i) historical buildings in occupational use - where adaptation to modern uses may be appropriate - and (ii) those buildings recognised as SAMs. He misunderstood the significance to HS of the burning of 1715. He considered that HS see this event as defining the cultural significance of the monument, which is not their position. The applicant produced no witness that was regularly involved in the practice of conservation ethics or philosophy. It was submitted that Mr Wright had experience of identifying uses for historic buildings and direct experience of identifying the cultural significance of historical buildings and devising an appropriate conservation strategy. Mr Bridgland may be regarded as a “cultural resource manager”. His experience and professional interest qualifies him to assess, analyse and criticise any “statement of cultural significance” or strategy for conservation.

International Guidance on Conservation Philosophy and Ethics

19.29 The significance to HS of a number of national and international documents relating to the conservation of the built heritage is marked by publication TAN 8, written by Dr Dorothy Bell who gave evidence on behalf of SPABiS. It was submitted that regard should be had to that document in its entirety for it provides a valuable insight into the genesis of, and purpose lying behind, the various international charters to which reference has been made. The applicant purports to have followed the *Burra Charter* methodology in devising the conservation strategy that underpins the present proposals. In TAN 8 the *Burra Charter* is said to be amongst the most valuable.

19.30 Conservation charters aim to provide a guide to good practice. They are not legally binding on the UK Government nor upon the Scottish Executive as neither are signatories thereto. Each charter should be applied to the site in a manner appropriate to the site’s location and traditions. On considering the *Burra Charter* it will be seen that it aims to provide guidance in respect of locally, regionally and nationally important sites as well as sites that may be inhabited or not inhabited. Further, the charter is concerned with the issues raised by the aboriginal peoples and their interests in a site. A comparable emphasis is placed on the indigenous cultural heritage in the New Zealand ICOMOS Charter of 1992. The particular weight given to consulting with “indigenous peoples”, referred to in evidence is not consistent with the status of the monument under the 1979 Act; i.e. as a monument of national importance. Moreover, such guidance as is provided by the 1979 Act must, where it

conflicts with any international (or national) charter, take precedence as such charters have no force of law.

19.31 TAN 8 states:

“Four basic design principles underlie the more recent Charters. All countries, to a greater or lesser extent, have agreed that when work is carried out under the terms of conservation:

- a. any intervention should be only the minimum necessary for the site’s survival;
- b. only a minimal loss of the existing fabric is acceptable;
- c. any intervention should, as far as possible, be reversible; and,
- d. new work should be clearly differentiated from the old.”

The Venice Charter

19.32 It was submitted that, as with all charters, the *Venice Charter* must be read in its entirety, but the provisions of Articles 1, 3, 5, 9, 11 and 15 were specifically commended to the inquiry’s attention.

Burra Charter

19.33 It was submitted that that the *Burra Charter* does not support the applicant’s proposals for restoration. It must be referred to for its whole terms, in considering the application. Attention was drawn to Articles 1.2, 1.6, 1.7, 1.8, 1.9, 1.10, 2, 3, 5, 11, 13, 17, and 19. The charter advises that a thorough investigation of the place in question should be undertaken. To establish the cultural significance of a place all the information relevant thereto should be assessed. Whatever may be considered as the principal significance of a place, all other aspects of significance should also be given consideration.

19.34 In broad terms, the conservation policy should relate the findings of the *Statement of Cultural Significance* to the condition of the place and discuss how cultural significance of the place may best be preserved or presented. That exercise should evaluate what conservation policies/solutions might be adopted in line with the *Statement of Cultural Significance* and evaluate how each possible conservation policy would affect the cultural significance of the place and its fabric. It was submitted that the guidelines, attached to the *Burra Charter*, accord with the evidence of Dr Bell who emphasised that one must link or create a “hinge” between (i) the assessment of the cultural significance of the monument and (ii) the conservation strategy. An exercise should be undertaken in evaluating the gains and losses under each conservation option. Once that exercise has been undertaken, one can determine which conservation solution will most appropriately preserve or present the cultural significance of the monument. It was submitted that the applicant had failed in its approach to developing the conservation strategy by failing to link the assessment of the cultural significance of the monument and the conservation strategy.

Other Materials and Guidance

19.35 A body of national guidance or guidelines has evolved in relation to conservation philosophy which, in addition to, but often derived from, international charters, informs policy making in the United Kingdom and informs decision-making by HS. The present objection by HS is based upon analysis of the proposals, informed by such guidance.

19.36 Historic monuments constitute an important historical record. They have cultural and emotional associations as well as aesthetic values. All of those values and associations should be conserved. Conservation should maintain the cultural significance of a monument. Conservation should aim at the lowest level of intervention that is consistent with achieving a monument's stability. There is a presumption against restoration, which is rarely appropriate. Monuments should be managed in a sustainable way to meet the needs of modern life without compromising the ability of future generations to understand, appreciate or benefit from the monument.

The Conservation of Architectural Ancient Monuments in Scotland

19.37 It was stated in the preface that the conservation (of these structures) "calls for the greatest care in ensuring that nothing is done that might detract from their value as primary evidence for the past." The booklet directs owners of monuments to the Stirling Charter which is said to define the principles which ought to underlie the conservation of the material remains of the past. The general principles of conservation are:

- A chief aim is to ensure that most important surviving evidence for the built heritage is preserved in the state in which it has come down to us and is passed to future generations without further change or loss of evidence.
- It is essential that nothing is done that will impair the important constituent parts of the monument.
- As all monuments are unique, they are irreplaceable and a balance is to be struck between achieving the continued life of a monument and of carrying out works that are so invasive that they modify the monument's character and detract from its value.
- Conservation should always be aimed at the lowest level of intervention that is consistent with achieving a monument's stability.
- Attempting to anticipate and forestall future structural problems can rarely be justified.
- All phases of a monument's structural history deserve respect and conservation. At the great majority of scheduled monuments all forms of restoration as opposed to conservation should be avoided.
- Restoration usually represents no more than a balance of possibilities based on our current state of understanding, and in most cases there can be no justification for imposing these ideas on the monuments themselves.
- The aim for most scheduled monuments is to preserve them in the state in which they come down to us but, for some, restoration may be the most viable way of ensuring their continued existence: that might apply to some tower houses.
- The restoration of harling is not recommended.
- The decision to excavate should not be taken lightly and, in general, excavation will only be granted consent on scheduled sites if it is an essential part of an agreed programme of works.

19.38 On the subject of the principles applying to restoration of monuments for re-use:

- In general, restoration is not considered appropriate in respect of a monument regarded as the most outstanding example of its kind or as particularly representative of its type. Restoration blurs the distinction between what is authentic and of primary documentary value and what is modern replication.

- Restoration is also likely to be regarded as unacceptable at those monuments that are of outstanding importance for their scenic value in their existing state, especially if a significant source of artistic or literary inspiration.
- Where restoration is in accordance with those earlier principles, it will only be looked upon favourably when the monument can be restored authentically on the basis of the surviving architectural evidence alone or on that combined with accurate pictorial representations.
- The provision of modern services can be particularly problematic.
- In most cases, proposals for restoration will only be viewed favourably when the monument can be restored authentically on the basis of the surviving archaeological evidence alone or on the basis of the combination of the surviving archaeological evidence and authoritative pictorial evidence.

Stirling Charter

19.39 In evidence for HS, The Stirling Charter was characterised as a mission statement. It does not contain the only tests for whether a particular proposal should proceed. It is not clear what weight or view of it is taken by Ministers. Importantly, it does not contradict any of the other charters considered in evidence and it enjoins reference to the body of international conservation charters. It defines the principles which ought to underlie the conservation of the material remains of the past.

Evaluation of the Merits of the Applicant's Proposals

19.40 *Submission:*

"The applicant's argument to the effect that the castle is simply a representative but not unique or intact example of a fortified site of the Kingdom/Lordship of the Isles may better justify the proposed reconstruction but it undervalues the importance of the monument. Castle Tioram and Eilean Tirim are unique and the castle is more than a mere representative sample of a seaboard castle on the North Western coast of Scotland. The more significant and unparalleled the castle and its site then the less appropriate are proposals that will do anything to alter that historical evidence that is the Castle and Eilean Tioram. The applicant misrepresents the value of the castle by undermining its significance as evidence of the life, times and demise of the Kingdom/Lordship of the Isles and subsequent history of the area."

19.41 It was submitted that, irrespective of the quality of the assessment of cultural significance, the applicant has ignored or misunderstood key aspects of the monument's importance and significance. That the castle is a representative but not unique or intact example of a fortified site of the Kingdom/Lordship of the Isles is not supported by others, in their assessment of the merits of the castle, for whom the castle is seen as unique and in a state of good preservation:

- HS15 at para. 2.5 – "Since all monuments are unique they are all irreplaceable";
- Wright, precognition at para. 21, "It is the assembly of the whole and its state of preservation that is of particular significance";
- Bell in evidence, "Castle Tioram is by the applicant's own research exceptional – the centre of a small kingdom. Its value is so great that it is in its own league. The approach to conservation all depends on what going to lose and what going to gain."

Evaluation of the Applicant's Conservation Strategy

19.42 *Submission:*

“Conservation philosophy requires thorough research and investigation of a monument from which reasoned conclusions as to the most appropriate conservation strategy are to be drawn. The applicant's approach is flawed. The assessment of the cultural significance of the monument has made subjective evaluation of factors which comprise the cultural significance of the monument. There has been a failure to analyse what flows from the factors identified as comprising the monument's cultural significance. There is no attempt to assess the gains and losses from potential alternative conservation solutions.”

19.43 The evidence on behalf of HS on conservation philosophy demonstrates that the determination of an appropriate conservation strategy is a logical process based on a methodology that is broadly agreed within the science of conservation ethics. Allied to that methodology are a set of generally recognised premises upon which analysis of the conservation needs of a particular site may proceed. It was clear from the evidence of Dr Bell, in particular, that the validity of one's conclusions about an appropriate conservation strategy will depend upon correctly following that methodology and applying those premises.

19.44 The applicant's assessment of the appropriate conservation strategy, upon which the present proposals are based, was found to be wanting. The criticisms undermine the applicant's argument that reconstruction is the most appropriate conservation strategy. If reconstruction is not the most appropriate conservation strategy, and best way of preserving the cultural significance of the monument, then the general principle to the effect that restoration should not be undertaken indicates that SMC should be refused.

19.45 Dr Bell's principle line of criticism was as follows:

- There was a failure by the applicant to discuss the significance of the matters found to be of historical and current importance.
- The applicant does not discuss whether there is any conflict between the matters found to be of importance: e.g. the importance of the castle as an administrative base and the decline of its power, influence and importance in the 17th Century.
- One must then go on to assess gains and losses which follow from any particular conservation strategy.

19.46 Dr Bell accepted, as accurate, the evidence presented by the applicant to the inquiry. She was interested in analysing the conclusions drawn by the applicant from that evidence and what it was said to indicate as the appropriate approach to conservation. Arising from the applicant's research, she noted that:

- Castle Tioram is exceptional – the centre of a small kingdom.
- Its value is its extraordinary historical importance and its place in the landscape.
- The fabric and archaeology of the monument have value as historical evidence.
- Linked thereto are emotional responses. It evinces public reaction. The direction of that reaction is less important than that it provokes a strong emotional reaction.

19.47 Guiding considerations were:

- Conservation places an emphasis on keeping the value of a monument. Debate surrounding the Colosseum in Rome was referred to.
- Massive intervention, to “save” a monument, may lose its value. Sometimes it is better to let the monument decay slowly and die with dignity.
- Each generation asks different questions and decisions, such as these proposals, taken today may exclude them from being answered by future generations.
- Technology is advancing and getting to the point where one can start finding evidence without intervention.

19.48 It was submitted that the gains and losses in any conservation process require evaluation. The proposals would lead to the loss of fabric with a consequent diminution in the monument’s value. The proposals are turning the residence of a lord into the home of a person.

Assessment of Applicant’s Statement of Cultural Significance

19.49 It was submitted that, having identified matters of significance, the applicant should have proceeded to consider what therefore is the significance of those issues. The hinge between the historical importance of the site and its significance is missing. The historical value of the site has been researched but what are the historical implications of the site? If it is reconstructed then one will lose the physical and the emotional impacts of the ruin. The applicant’s *Statement of Cultural Significance* has no discussion of issues where conflict might arise. There is no discussion of the significance and value of the monument’s history.

19.50 There is no consideration of the period 1715 to 2001. There is an assumption that the previous 500 years is the most important period without that being fully reasoned. There is a need to pinpoint and consider the conflict between the two periods. There is no consideration of what is lost by restoration and how that element might be maintained/presented (save perhaps by way of reference to it in a notice board or guidebook). The “Scottesque” is disparaged in evidence as grotesque. Such attack dismisses an important part/strand of the Scottish culture. One neither needs to approve of it or disapprove of it. It is inept to proceed along the lines that some disapprove of Scott’s view. One should simply note its existence and appreciate that any conservation strategy has to take note of its existence; consider what significance its existence has and how it is shown by the monument; consider whether it conflicts with other aspects of importance; and address how different conservation strategies would affect that. This has not been done.

19.51 The *Statement of Cultural Significance* does not enter into discussion of whether one can consolidate without damaging the archaeology. It needs to be proved that there is no other way of doing the work without destruction. Different types of intervention cause different degrees of destruction. This is not assessed or considered.

19.52 It was argued that one should keep the emotional response that exists. One simply must acknowledge that it is there rather than attempt to evaluate which emotional response is the most appropriate or meaningful. The applicant, having decided that the 1715 burning, and the matters that may be inferred therefrom, is of secondary importance appears to use that finding as a basis for demeaning the importance to be attached to the finding that

people's understanding of the history concentrates on the burning. It was submitted that such an approach demonstrates a partiality on the part of the applicant's assessment of cultural significance. It was submitted that evidence about emotions concerning the castle demonstrate that such understanding is to be accepted as a fact and given due regard in considering the cultural significance of the monument to the public. It should not be judged for its worth. It was submitted that:

- The cultural significance of Tioram has not been adequately stated.
- The significance of Tioram in the context of other key fortifications in the region is misunderstood or played down deliberately.
- The conservation solution advanced by the applicant runs counter to the wisdom of a conservation strategy, that of consolidation, that has been adopted successfully in other places.

19.53 Further criticisms of the applicant's approach to assessment of the *Statement of Cultural Significance* are:

- The social value of the site (in terms of Burra) was not based on public consultation in respect of which the questions asked were known about so one cannot gauge the responses. The analysis of consultation appears to post-date the Conservation Strategy. One would have expected this to have been done first.
- The Statement of Cultural Significance does not have an aesthetic assessment of the building as a totality. There is discussion of the landscape but no evaluation of the aesthetic of the building as required by the *Burra Charter*.
- There is little said about the 19th century. The *Statement of Cultural Significance* says little about the significance of a neighbouring land owner carrying out stabilisation work to the fabric of the castle. There was no consideration given to the significance of local folk-lore being associated with the castle, e.g. Father MacDonald tales.
- It is not clear why financial viability on consolidation is an issue but not in respect of restoration. In neither case will the building pay for itself.
- There is a failure to assess the gains and losses inherent in alternative conservation solutions.

The Nature and Character of the Proposals: Reconstruction

19.54 *Submission:*

"The proposals will lead to a 21st century idea of the 17th century condition of the Castle as opposed to an accurate version of how it would have appeared, felt, and been used in the 17th century. The applicant's claims for historical accuracy should not be accepted as valid."

19.55 It was submitted that the works for which consent is sought involve the reconstruction of Castle Tioram, as that term is defined in the *Burra Charter* and understood generally in conservation circles. The proposals intend to recreate the castle circa 1650 and, it is claimed, by witnesses led on behalf of the applicant, will recreate the former grandeur of the castle. There is no evidence on whether that grandeur was the state of the castle in the latter half of the 17th century. There is evidence to the effect that the castle was in decay by the latter half of the 17th century. Such a history of past repair, decay and abandonment of the site (even before the fire) is all part of the site's history and its cultural significance.

Restoration to a pristine condition may bear little reality to the state of the castle as at the chosen date. This leads to distortion of the castle's history.

19.56 If it be the case that the outward appearance of the castle can be restored to an accurate representation of its condition in the latter half of the 17th century (which was disputed), it does not follow that the castle will be an accurate representation of its form, and the experience it presented, circa 1650. The interiors will not represent their form in 1650. The condition of the interiors of 17th century north-western castles is not known; the "secondary apartments", dismissed as being of minor interest, would be used as modern bedrooms. Modern services (including kitchen and bathrooms) would be introduced into the interiors distorting the "feel" and use of the interiors from that of the 17th century.

19.57 The use to which the castle will be put, under the proposals, will not equate to that of the 17th century. It was formerly a defensive structure, an administrative centre, a centre of justice, a cultural centre, a family home and a clan base. Its proposed use will essentially, no matter what clan centre may be included or cultural events held, be that of a private residence. It is submitted that no 21st century usage can equate to its multi-purpose use in the 17th century.

19.58 The surroundings of the castle have changed since the 17th century. The proposals do not consider what the island would have looked like in the 17th century. There is archaeological evidence of structures on the island, many dating from the 19th century, but there is no conclusive view as to what wooden structures may have been on the island at the primacy date. The island would not have had the managed pathway system that is proposed. The setting of a monument is of great significance. There is no consideration given to recreation of the setting of the castle, namely Eilean Tirim, as it would have been in the 17th century. The restoration is more likely to tell the public about early 21st century notions of what the castle was like than it does as to what the castle was like, in reality.

Objection to the Principle of Reconstruction

19.59 *Submission:*

"HS objects to the principle of restoration enshrined in the proposals in the application. It is not considered appropriate to this monument of national importance to convert it into a modern residence or to attempt to "recreate" its condition in 1650. Aspects of the design are referred to in support of the argument on principle but the objection does not rest on those criticisms."

19.60 It was submitted that, whilst holding an objection to the principle of reconstruction (as HS has done at all stages), it would have wasted the applicant's time and money had HS engaged in a process that saw regular revisal of parts of the design proposals. It was admitted that particular aspects of the design proposals have been referred to in criticisms made by HS but those details have been illustrative of the objection to the principle of reconstruction rather than fundamental to the objection. The arguments in support of the objection to the principle of reconstruction were summarised as follows:

- Consolidation preserves and gives weight to all stages of the castle's history whilst restoration does not.
- The proposals will create a building for modern inhabitation. This does not equate to the use to which the castle was put in the period during which it was inhabited.

The use proposed will therefore not be in accord with the use to which the castle was put at the aimed for primacy date.

- Reconstruction removes the physical evidence of the destruction of the castle by fire and its history over the following 286 years. In addition, one would lose the ruin in the landscape.
- Restoration to one phase of the castle is not compatible with the perception of the castle as a gothic ruin/ruin in the landscape.
- Restoration to one phase does not give equal weight to all phases and parts of the castle's cultural significance.
- Little is known of what the interior of the castle would have been like nor how it would have been used.
- The upper levels are characterised as secondary apartments and consequently of less importance. Therefore, they may be used as modern bedrooms and bathrooms. The reconstruction thus departs from its stated intention of achieving an accurate restoration of the castle by fitting a substantial part of the castle in a modern idiom. It is not intended to open these rooms to the public.
- The main rooms will introduce a degree of conjecture. The smaller rooms are being seen as of less importance. The smaller rooms may be very useful to the intellectual experience of the building. The restoration will not allow interpretation of the castle as a unit.
- Restoration can destroy site evidence and distort history; the preservation of ruins through consolidation allows others in the future to take decisions.
- The introduction of modern services, no matter how well executed, is a departure from the condition of the building in 1650.
- There are aspects of the proposals for which no firm archaeological evidence exists on site or in pictures. Reliance is placed on comparable sites. That approach does not accord with para. 16.6 of HS15.
- No consideration has been given to a roofed but uninhabited building. This would minimise the introduction of services. Even with a mitigation strategy in respect of archaeology the introduction of services leads to damage.
- The restoration proposals will change the value of the monument for a single interest at the expense of the common good. This is a monument of "national importance".
- The proposals will, on realisation, evidence 21st century ideas of how the castle looked in 1650. Future generations will be denied immediate access to the original form and structure and will be served the 21st century interpretation.

Objections to the Design Proposals

19.61 *Submission:*

"HS has specific criticisms to make of many of the design proposals adopted by the applicant as being inappropriate for this monument."

19.62 It was submitted that the castle would not use rones and drain pipes which increases the exposure of the wall-heads to water ingress; flues constitute a likely conduit for water penetration; walls of that thickness can take a long time to dry out; and that timbers embedded in damp wall are exposed to the risk of fungal attack. It was not claimed

by HS that it is impossible to eradicate or prevent such problems but doing so increases the extent of intervention to the fabric.

19.63 It was asserted that the castle in its reconstructed form would prove difficult to maintain given its location. There are significant difficulties with ease of access to many parts of the fabric, given the overall configuration of the site, e.g. the need to limewash at regular intervals to maintain the integrity of the harled finish. It was submitted that no conclusive finding may be made in respect of the relative extent of maintenance that would be required under either solution. Thus, the annual costs for each solution are not, and cannot, be considered to assess which will be the more expensive or extensive.

19.64 HS did not accept that the evidence indicates that restoration will result in less extensive maintenance requirements. It was submitted that the foundation of the applicant's claim for lower maintenance is founded in the fact that restoration and inhabitation might lead to earlier identification of repair needs. It was conceded that it is in the interests of an owner to maintain his property but it will be difficult to obtain access to parts of the castle. Access to all the wallheads is not intended. No decision has been taken as to whether to restore all the wallheads to their original form or to leave them as they are. There is no reason why consolidation should not be accompanied by a regular programme of inspection and seasonal overhaul.

19.65 The exterior walls of the castle are generally to be the ones which receive the greatest and most destructive action of the elements. Those walls are not to be harled in the restoration project. They would not be harled in a consolidation project. The wallheads would be the same. The maintenance requirements would be the same for the curtain wall. The proposals for restoration would result in the introduction of a roof, which has the consequence that a greater volume of water, being shed by the roof, would land on the wallhead. Climate changes were said to change the rate of building deterioration. Against such events, it is difficult to predict, with any degree of accuracy, the maintenance requirements of the castle. For 286 years the castle has stood unroofed. The applicant had accepted that it was simplistic, and not necessarily justified, to claim that the rate of decay of an unroofed building was three times greater than in the case of an roofed building.

19.66 Restoration would involve creating a more complex structure increasing the number of "parts" requiring annual inspection and ongoing maintenance. The *Conservation Strategy* made no evaluation of the relative risk of such damp problems, nor is regard had to the extent of fabric intervention that may, potentially, be required to avoid such problems. It was submitted that failure to consider such matters is a further example of the criticism that risks/benefits and gains/losses ought to be assessed in considering a conservation strategy.

19.67 It was submitted that concerns for public access were consistent with the scheduled status of the monument. The proposed access to the reconstructed castle on 49 days of the year represents a loss over the pre-closure freedom of access to the island and the interior of the castle at all times. No consideration is given in the *Statement of Cultural Significance* of the loss that may flow from such restriction and there is no consideration of whether the reconstructed castle, closed on the other 310 (*sic*) days of the year will serve as any kind of disincentive to visitors. The Section 75 agreement does not preclude renegotiation of the access arrangements at the instigation of the applicant.

19.68 The archaeological evidence indicated that there was uncertainty as to what will be discovered on site. The strategy was one of mitigation for the damage that is foreseen arising from the works. It proposed to sterilise the courtyard and most of the island, leaving no opportunity for future generations. It did not appear that the archaeologists had been engaged in a discussion with the other professionals as to how works could be undertaken in such a way as would minimise the amount of archaeology required or minimise the potential risks.

Funding

19.69 *Submission:*
“No reliable guarantee of funding for works is being offered to Scottish Ministers.”

19.70 It was submitted that funding was of great significance to whether a consent should be granted as Ministers were entitled to know whether there would be sufficient funding to complete works once begun. The *Conservation Strategy* appeared to say that such funding as is necessary is to be donated to HST, which will in turn make this money available to the applicant. This is, in effect, an acknowledgement that the applicant is a “man of straw”. There is no explanation, and has been no explanation, as to the source of this money. Thus, it is difficult to assess the reliability of funding with no party identified to whom representations might be made in the event that the works are delayed or not completed for lack of funds.

19.71 The Section 75 Agreement remains in draft form. It would be executed between the council and the applicant, which has no resources of its own. It would not be entered into with the Ministers. The extent to which any funding is said to be guaranteed is only in respect of the completion of the phase that is in execution.

Miscellaneous Justifications relied upon by the Applicant

19.72 *Submission:*
The applicant has referred to a miscellany of other apparent justifications for the grant of consent. It is argued that the following apparent justifications are without substance.

Absence of Alternative Solutions

19.73 For anyone that values the monument there is a superficial attraction to the argument that the application presents the only opportunity to prevent the loss of a much loved monument. It was submitted that such reasoning is flawed. The question for Scottish Ministers is whether this particular application ought to be granted consent. The absence of an alternative competing conservation strategy is not relevant to the merits of the application and should not count in favour of granting SMC.

19.74 Given the stated objectives of the HST, it ought not to be the case that the present owner would frustrate alternative solutions should the applicant's proposals be adjudged as not in the best interests of the building. There is sufficient evidence to conclude that other solutions might appear. That of itself argues against second guessing what might happen should the application not be granted. Funding for alternative conservation projects

had not been a subject of much detailed or comprehensive evidence. HS considered that such evidence would not be relevant and would be wasteful of inquiry time. Nonetheless, it may be considered in passing that funding opportunities do exist viz. lottery funding and ancient monument repair grants. Proposals to consolidate the ruin would be entirely in accordance with the conservation philosophy advocated by the principal funding agencies, and for which funding can be secured. There is no reason to believe that if this consent is not approved then any demand will be made on the public purse or, at least, on budgets that are not already provided for conservation.

19.75 It was submitted that the absence of detailed consideration (by the applicant) of alternative solutions indicates a partial approach to the evolution of the most appropriate conservation strategy for Castle Tioram. Paradoxically, the absence of alternative proposals by the applicant may count against it. It emerged in cross-examination that there was no commitment on the part of the applicant to fund an alternative conservation solution. That determination to proceed with the proposals or nothing is inconsistent with the stated objectives of the Trust. Those wishing to see some steps taken to conserve the Monument are driven to supporting the application as the alternative is for nothing to be done. Thus, support for the application is obtained from people who might prefer alternative solutions were they on offer.

Comparisons – References to Other Sites and Projects

19.76 *Submission:*

“It was submitted that little if any reliance should be placed on evidence relating to other monuments in assessing whether or not the application should be granted consent. Each monument’s needs and circumstances differ. A design solution appropriate to one may not be appropriate to another. Without a detailed understanding of the issues faced in any other monument to which reference has been made, it is impossible to evaluate the relevance of that evidence to Castle Tioram.”

19.77 The degree of evidence presented about Castle Tioram and Eilean Tirim has not been presented in respect of any other site. The source of the evidence presented about other sites has been text books, references by applicant’s witnesses to their involvement with other projects or as anecdotal asides. HS deliberately took the view that exploring such evidence in cross-examination was pointless as insufficient was known by HS about those sites and further, but most importantly, they did not form the subject of the present application. It is not possible to evaluate such evidence as related to other sites and decide upon its relevance to the present Inquiry. It was accepted that references, in evidence, to other monuments is relevant to assessing the experience of witnesses or the basis for their opinions.

19.78 It was submitted that a properly prepared conservation strategy, for any particular site, is unique to that site. Therefore, what is appropriate for Argyll’s Lodging or Stirling Castle Great Hall is not necessarily appropriate to Castle Tioram. Further, as is evident from the burgeoning number of conservation charters, conservation philosophy is dynamic and evolving. Decisions taken in the 1960s may only now be being realised. However, the decision taken then might not be taken now.

Obligations for Public Safety

19.79 It was submitted that the burden of responsibility for the safety of the public, incumbent on any owners, has been presented as more onerous than is the case. Consequently, the inference that significant work to the fabric would be required for that purpose alone is unfounded. References were made, in the course of the inquiry, to obligations imposed by “health and safety” legislation. The nature, extent and applicability of such have not been tested in evidence and are more suited to the requirements of building regulations and health and safety obligations of contractors to their employees. The legal duties owed to those coming onto the island are, however, founded solely in the terms of the Occupiers’ Liability (Scotland) Act 1960. The owner/occupier’s obligations are only to take such care as is reasonable in all the circumstances to prevent injury or damage from such dangers as are due to the state of the premises. Securing obviously unstable masonry, barring easily accessible dangerous heights and placing warning signs against climbing would be sufficient to satisfy the obligations incumbent upon the owner. The nature of the monument with the costs and potential for destroying historic fabric would be relevant in a court’s assessment of whether an owner had satisfied the duty to take all reasonable steps. Many ancient monuments are capable of being climbed or have areas closed to the public without there being extensive intervention in the fabric to prevent possible danger.

Economic Considerations

19.80 It was submitted that much of the labour required on the monument would be specialist and the scope for local employment is limited. Anyone trained in particular trades is likely to require to seek employment out of the area. Employment creation is not one of the functions of the 1979 Act. The employment opportunities would not be of a level of “national importance”.

Tourism

19.81 It was submitted that the castle is already serving as a tourist attraction and has so done for many years. It is questionable that opening the castle on 49 days in the course of the year will serve to extend the number of visitors in the area in the shoulder months. One site is not likely, it was submitted, to increase numbers to any significant extent. The renegotiation downwards of the number of days that the castle is to be is thus a possibility. The desire to increase visitor numbers is inconsistent with the concerns that the site does not become a honeypot. No one has claimed that the number of tourists will make the castle a tourist attraction of national importance. It is not established whether the restored castle may serve as a disincentive to people to use the island for recreation. Consideration of the merits of attracting tourists is irrelevant to SMC. The primary purpose of the 1979 Act is not to achieve tourist visitation. Nor are the numbers of tourists attracted to a site a reason for it being scheduled.

Public Consultation and Reaction

19.82 It was submitted that the exercise in public consultation allows little to be drawn therefrom. The questions asked are not recorded, nor is the full scope of public reaction. It has been demonstrated that public reaction is strong. That public reaction is perhaps best taken as evidence of a public interest in the castle. No alternative strategy is

being proposed at the inquiry and people are desperate that something be done. If a fully developed alternative strategy were to be advanced it is interesting to speculate as to what support the alternatives might attract.

19.83 Given the concerns of the 1979 Act, and the principles of the conservation debate, it would be wrong to approve the application on the basis that it was the only option on offer. With a monument of national importance then recognition of public opinion across the nation is the most appropriate interest group to take into account.

19.84 The Internet Guest Book should be given no evidential weight or consideration. There are opinions which are pro-restoration, against restoration and express concern about access. Some entries are "private entries" - where one has no idea as to the opinion expressed. Others have simply recorded appreciation of the site or used it as a tourist site. Others have reminisced about times past. There is no analysis of the benefits of restoration.

Research Quality

19.85 It was submitted that the applicant appears to argue that the quality of the research is a justification for granting consent to the application for SMC. The research is required by good conservation practice as the preliminary step in assessing the appropriate conservation strategy for a monument. Poor quality research will undermine the validity of an exercise in assessing a conservation strategy. However, it does not follow that a conservation strategy has been properly formulated simply because the quality of research is high.

Use - Desirability of Finding a Use

19.86 It was submitted that the applicant's claim that it is desirable to find a use for the monument is, in part, founded on a principle that is more appropriate to listed buildings. In any event, the monument already has a use.

Alternative Options

19.87 *Submission:*
"Scottish Ministers are entitled to grant SMC in respect of all or part of an application. The absence of any detailed alternative proposal for conservation is not relevant to the grant of this application. No conclusions can be drawn to the effect that alternative projects, with suitable funding arrangements, might not be devised. Consolidation of the ruin is technically feasible and appropriate."

Alternatives

19.88 It was submitted that no detailed consideration of alternative conservation solutions is provided by the applicant. The absence of detailed consideration of alternative solutions indicates a partial approach to the evolution of the most appropriate conservation strategy for Castle Tioram.

Consolidation

19.89 It was submitted that consolidation of the ruin referred to the process of making structurally sound both the curtain wall and the interior walls of the castle. This approach would leave the interior accommodation block unroofed and unfloored. It would not introduce any new materials other than those required to consolidate the curtain wall and provide for such structural stability of the interior walls as was necessary. There would be no attempt to reconstruct any missing features of the castle.

19.90 The applicant proposes to undertake consolidation of the curtain wall and that aspect of the applicant's proposal is effectively the same as would be undertaken in consolidation of the ruin. The extent to which the curtain wall requires to be grouted in the process of consolidation is a matter of dispute between the applicant and other witnesses who considered that less extensive grouting would be required. There is no evidence of imminent extensive wide-spread collapse. A phased consolidation project, undertaken over a number of years, would be possible. The walls are stable. Consolidation would protect the castle for many years. It would be feasible to re-roof the interior block but not return it to inhabited use. This would avoid the problems of using the castle as a modern dwelling but address the applicant's concerns that the castle needs to be roofed.

Options Open to Scottish Ministers in Granting Consent

19.91 It was submitted that it would be possible to grant consent for the archaeological research proposals alone. There is the potential for significant archaeological discovery. The archaeological and historical fruit of the monument, in particular the island, is not presently fully known. A targeted programme of archaeological research would have the merit of increasing understanding of the monument, but it should not go further than the minimum necessary to achieve the research objective. The principles of preservation *in situ* argue in favour of only disturbing what is necessary. Equally, archaeological research need not be tied to a development project.

Conclusions

19.92 It was not disputed that the applicant had produced research of an exceptional quality and so demonstrated a commitment to the monument. However, that commitment is partisan as the applicant had committed itself to the principle of restoration and no other form of conservation. The proposals would attempt to accurately portray the castle as it was in 1650. Such an action emphasises that period in history to the detriment and exclusion of others. It dismisses the significance and removes the evidence of the last 286 years.

19.93 Restoration is disapproved in principle by the general body of conservation ethics unless necessary for the survival of the castle. The evidence does not demonstrate that reconstruction is essential for the survival of the monument. The monument's value would be lost. The proposal assumed a degree of arrogance. Why is it that the 21st century should have arrived at the definitive view of what the castle would have looked like in 1650? One can never recreate authentically the 1650 experience now that the surrounding landscape has changed, the interiors will have modern elements and the original use of the castle as a potentate's power base is lost. The proposed reconstruction would speak of the ideas of the 21st century rather than those of the 17th century. Once done, the works cannot and will not

realistically ever be capable of being undone. Many aspects of the proposals have not yet been finalised. It would be irresponsible to grant consent to such an unknown quantity.

19.94 It was submitted that inadequate guarantees are being provided about the funding of the project and the resources of an applicant that relies on donations from unnamed sources.

19.95 It was submitted that a monument of national importance merits proposals that are of a similar magnitude. These proposals are not of such magnitude. They are to realise a private dwelling that is to be executed in a "safe" manner sympathetic to the 17th century castle in the northwest of Scotland, as opposed to a verifiably accurate reconstruction of the 17th century Tioram in its entirety. The proposals if allowed would result in the descheduling of the castle and it would thus lose its present degree of protection. The island would remain scheduled with its setting irrevocably, and inappropriately, altered.