

Inquiry Reporters Unit
2 Greenside Lane
EDINBURGH

The Scottish Ministers
Victoria Quay
EDINBURGH

17 January 2002

I have the honour to report that, in accordance with my minute of appointment dated 16 March 2001, I conducted a public local inquiry into an application for Scheduled Monument Consent made by Anta Estates Limited for the conservation of the scheduled monument at Eilean and Castle Tioram, including the consolidation of a curtain wall, the consolidation and re-roofing of standing buildings, the formation of footpaths, the control of vegetation, the reinstatement of a pier, and an integrated programme of archaeological excavation and research.

The inquiry took place as a result of the applicant having elected, in terms of Part 1 of Schedule 1 to the Ancient Monuments and Archaeological Areas Act 1979, to exercise the statutory right to "an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose" to contest the advice given to the then Secretary of State. That advice, along with the information available to him as set out in the papers accompanying the application, led the Secretary of State to advise the applicant, by letter dated 30 April 1999, that he was minded to refuse Scheduled Monument Consent for the reconstruction of Castle Tioram and the excavation of Eilean Tirim's archaeology for the following reasons:

"Historic Scotland considers that whatever cultural benefit may derive from these proposals is outweighed by the damaging impact that their implementation would have both on the historic fabric of the scheduled monument and on the cultural significance of Castle Tioram and Eilean Tirim.

The proposals for reconstructing the Castle would, if implemented, produce a building which does not reflect any known historic form. The restoration includes elements based on conjecture, others for which there is no physical or documentary evidence, and others for which relevant evidence exists but has been disregarded.

The proposed reconstruction would also have an irreversibly damaging impact on the surviving historic fabric because of the structural work necessary, the introduction of modern services (which are not fully detailed in the application) and the increased level of continuing maintenance that a modern dwelling would require.

The proposals entail the almost total excavation of the below-ground archaeological remains on the island. In adopting this approach, they take no account of the inherently destructive nature of archaeological excavation and make no allowance for

the conservation of at least part of this resource for investigation by future generations.

Castle Tioram and Eilean Tirim are the focus of a National Scenic Area. This designation reflects their cultural importance as a ruin in the landscape. The current proposals offer nothing to enhance this aspect of the monument, but rather have the potential to lessen it.

Much of the special appeal of Castle Tioram derives from its association with the 1715 Rising and its destruction at that time. It is made more poignant by the long association of the Castle up to that date with one family, the Clan Ranald, who trace their history back to the time of the Lordship of the Isles. Unroofed, Tioram stands as one of the most evocative monuments to the strength of Jacobite feeling. The reconstruction of the Castle would inevitably undermine this aspect of its appeal and thereby diminish its cultural significance.

The proposals make no specific provision for the long-term future maintenance of the building once restored. In particular there is a lack on (*sic*) clarity concerning its present and intended future ownership and its proposed use. Consequently, there are no guarantees as to its future life as a restored building and its likely survival as such remains open to doubt.”

The inquiry took place within the Shielbridge Hall, Acharacle on 5-8, 11-14, and 18-20 June 2001; 13-17, 20-24, and 28-31 August 2001; and 29 and 31 October 2001; and within the Primary School, Acharacle, on 10 and 11 July 2001. Post inquiry correspondence concluded with the letter dated 11 December, 2001, from Dundas & Wilson CS, and that dated 13 December, 2001 from the Office of the Solicitor to the Scottish Executive. At the close of the inquiry motions for the award of expenses were lodged on behalf of the applicant against Historic Scotland, and on behalf of Historic Scotland against the applicant. I will address these in a separate report.

I made an accompanied inspection of the site and its surroundings on 7 June 2001 and further unaccompanied inspections prior to and in the course of the inquiry.

Appearances

The parties participating in the inquiry were:

Applicant:	Anta Estates Limited
In Support of the Application:	The Highland Council Mr H Donaldson Mr I Macmaster
Objectors:	Historic Scotland Society for the Protection of Ancient Buildings in Scotland Prof D Mollison

A full list of participants, witnesses and counsel is contained at Appendix 1. Fifteen written representations were submitted in support of the application, seven of those in the course of the inquiry. A petition containing 102 signatures protested about the cost of the inquiry process and urged a quick approval of the application.

Appendix 2 contains the lists of productions. Appendix 3A contains a list of conditions which Historic Scotland recommends be attached should Ministers be minded to grant consent; Appendix 3B contains a list of conditions recommended by the applicant; and Appendix 3C is the list of conditions which I recommend be attached should Ministers be minded to approve the application.

On consideration of an application for planning permission, The Highland Council as local planning authority resolved to grant planning permission for the proposals on 2nd June 2000, subject to a legal agreement, to conditions and to referral of the application to Scottish Ministers. The Scottish Executive Development Department confirmed, on 14th July 2000, that Ministers did not intend to call in the application for their determination and referred it back to the council to determine in the manner they thought fit. The legal agreement is in draft form and had not been signed at the time of the inquiry. The planning application was not a matter for consideration at the public local inquiry.

Beyond the boundary of the scheduled area lies a 19th century pier which is listed under the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. The council approved listed building consent for this item on 2nd June 2000 subject to referral to Scottish Ministers. Historic Scotland confirmed on 9th October 2000 that Scottish Ministers did not require this part of the application to be called in for their own determination. All other matters require consent under the 1979 Act.