

Delegated or Committee Planning Application Report and Report of handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 14/01500/PP
Planning Hierarchy: Local
Applicant: Mr Charles Dixon-Spain
Proposal: Retention of a cabin for office use for a temporary period of 36 months (retrospective)
Site Address: Dunans Castle, Glendaruel, Colintrave PA22 3AD

DECISION ROUTE

Local Government Scotland Act 1973

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Retention of a cabin for Class 4 office use for a temporary period of 36 months (retrospective).

(ii) Other specified operations

- Installation of foul water drainage connection to existing septic tank;
 - Connection to private water supply.
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(B) RECOMMENDATION:

It is recommended that Planning Permission be granted as a 'minor departure' to development plan policy subject to the conditions set out below.

(C) HISTORY:

00/01900/DET - Planning Permission granted on 7th February 2001 for the erection of a shed on land to the north east of the castle. This permission was not implemented.

02/01861/DET - Planning Permission granted on 16th December 2002 for the erection of a timber building for residential, storage and workshop use. Condition 3 of this permission required the residential use of the building to cease by 16th December 2004 unless further consent was granted.

05/00028/VARCON - Application received on 7th January 2005 for an additional 24-month occupancy of the temporary building. This application was withdrawn on 23rd February 2005 as it had been established that two additional timber buildings had been erected at the site without Planning Permission.

05/00396/DET - Permission granted on 5th September 2005 for repairs and alterations to house attached to castle ruin; erection of a steel clad roof for a temporary period over the link from house to castle ruin to allow dry rot treatment; erection of steel clad roof over castle ruin for a temporary period to provide protection; formation of new vehicular access from A886 road; formation of access track with passing places; and erection of temporary store for construction purposes.

05/00398/LIB - Listed Building Consent granted on 5th September 2005 for repairs and alterations to house attached to castle ruin; erection of a steel clad roof for a temporary period over the link from house to castle ruin to allow dry rot treatment; erection of steel clad roof over castle ruin for a temporary period to provide protection.

05/00463/DET - Application received on 2nd March 2005 for the retention of the additional buildings and further 24-month occupancy of the original temporary building. It transpired during the processing of this application that the original timber building had not been erected in accordance with the details approved under permission 02/01861/DET and that new foul drainage arrangements required to be installed. This application was, therefore, withdrawn on 18th May 2005.

05/01175/DET - Permission granted on 4th August 2005 for the temporary retention of site office and storage building; the amendment to planning permission 02/01861/DET (in terms of layout and design of timber building); the variation of condition 3 of planning permission 02/01861/DET (to allow the continued residential use of timber building for a further 24 month period); and the installation of septic tank and soakaway.

06/01334/NMA - Application for amendment to Planning Permission 05/00396/DET incorporating revised position timber boardwalk was approved on 14th May 2007.

10/01793/PP- Retention of temporary accommodation, replacement of mineral felt roof covering with box profile metal sheeting and provision of septic tank (Retrospective) was approved 4 May 2012

14/01928/LIB – Application for alterations to listed building – appears elsewhere on the agenda.

The presence of two additional timber outbuildings was brought to the Council's attention in 2011. A retrospective application (13/00797/PP) to retain these was withdrawn in January 2014. In the absence of a revised application, an enforcement notice (12/00062/ENOTH2) was served on 22 May 2014 requiring the removal of a timber outbuilding used as an office.

An appeal against the enforcement notice was upheld on 3 September 2014. The Reporter concluded that a thorough and professional scheme of restoration is planned and considered that a much longer period for compliance was justified. He considered that any disadvantage to the public is minimal, as the timber building is simple and comparatively unobtrusive and hardly likely to be noticed as affecting the setting of the castle for as long as restoration works are in progress. He varied the enforcement notice to give a compliance period of 3 years, i.e. until 3 September 2017.

(D) **CONSULTATIONS:** None.

(E) **PUBLICITY:** The proposal has been advertised (expired 1 August 2014).

(F) **REPRESENTATIONS:**

One letter of objection has been received from Mr R Creelman, Stronardron, Glendaruel (letter dated 8 July 2014) on the following grounds:

- The application is misleading as it is a commercial office in support of Dunans Castle Ltd, giving rise to substantial numbers of visitors to the Dunans and grounds.

Comment: The log cabin is evidently used commercially by Dunans Castle Ltd – a business wholly owned by the applicant. The business offers investors the opportunity to acquire an honorary title of Laird. The business, which appears to be largely internet based, is owned by the applicant.

The applicant and one other full-time staff member use the log cabin building to deal with the administrative aspects of the business. The office is equipped to accommodate three persons and has toilet and washing facilities including a shower, but currently no facilities for food preparation. The building was previously used as a site office on another part of the site temporarily sited under planning permission 05/01175/PP. The building remained on site in breach of the planning permission until it was re-sited to its current position during 2010.

- The submitted plans do not show other existing timber buildings. The plethora of shacks would remove what little visual amenity exists for this listed building.

Comment: The Planning Authority has registered and validated the application in an attempt to address the objector's repeated complaints about breaches of planning and listed building control at this location. While there may be some deficiencies in the description or draughtsmanship, given that the application is retrospective in nature the siting, size and characteristics of the building are self-evident.

- There are only two visitor parking spaces at the main road entrance to Dunans. Visitors can grossly exceed this capacity with visitors parking on the objector's property. Passing places on the access drive were required in connection with a previous application at Dunans steading but have not been provided. A new access road has not been provided.

Comment: There is adequate parking within the site for staff engaged in this building. Development at Dunans steading has not been implemented and the permission has lapsed.

(G) **SUPPORTING INFORMATION**

Has the application been the subject of:

- (i) **Environmental Statement:** No

- (ii) **An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994:** No
 - (iii) **A design or design/access statement:** No
 - (iv) **A report on the impact of the proposed development eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc:** No
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(H) PLANNING OBLIGATIONS

Is a Section 75 agreement required: No

- (I) Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32:** No
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(J) Section 25 of the Act; Development Plan and any other material considerations over and above those listed above which have been taken into account in the assessment of the application

- (i) List of all Development Plan Policy considerations taken into account in assessment of the application.**

Argyll and Bute Structure Plan 2002

STRAT DC 5 – Development in Sensitive Countryside
STRAT DC 7 – Nature Conservation and Development Control
STRAT DC 9 – Historic Environment and Development Control

Argyll and Bute Local Plan 2009

Policy LP ENV 1 – Development Impact on the General Environment.
Policy LP ENV 8 – Development Impact on Local Nature Conservation sites.
Policy LP ENV 13(a) – Development Impact on Listed Buildings
Policy LP BUS 2 - Business and Industry Proposals in the Countryside Development Control Zones.

- (ii) List of all other material planning considerations taken into account in the assessment of the application, having due regard to Annex A of Circular 4/2009.**

Argyll and Bute Council Proposed Local Development Plan 2013
Scottish Historic Environment Policy (December 2011)
Planning History
Representation
e-mails from applicant dated 1 and 12 September 2014
Dunans Castle Conservation Plan dated 1 March 2014

- (K) Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment:** No
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(L) Has the application been the subject of statutory pre-application consultation (PAC): No

(M) Has a sustainability check list been submitted: No

(N) Does the Council have an interest in the site: No

(O) Requirement for a hearing (PAN41 or other): No

(P) Assessment and summary of determining issues and material considerations

The main building at Dunans is Listed, category B. It suffered fire damage in 2001 and the current applicant purchased the property and proceeded to reinstate a wing of the building as his principal residence following grant of planning permission and Listed Building Consent. However, a large part of the building remains derelict. The process of reinstatement and refurbishment has been protracted. The applicants have, over a period of years, invested piecemeal in the refurbishment of the house as budget allowed.

The applicant's Dunans Castle Conservation Plan advises that:

“The headline conservation policy for Dunans is to restore the castle to a sustainable use, possibly as a mixture of uses including a visitor / education centre and small scale conference facility, and high quality holiday accommodation. The restoration and enhancement of the landscape will need to be part of the project. This will clearly be a long term project with a number of phases which will require the support and encouragement of a wide range of stakeholders and authorities. If successful, however, it has the potential to yield considerable benefits for Scotland's heritage and the local area.”

Whilst these proposals are embryonic and have yet to be the subject of planning and listed building applications, they may be regarded, in principle, as according with Policy LP ENV 18 (Protection and Enhancement of Buildings) of the adopted Local Plan

The applicants obtained previous permissions to site temporary buildings and stores to allow the redevelopment operations to progress. This included planning permission to erect a temporary accommodation building (02/01861/DET) that has now been extended on two occasions (05/01175/DET and 10/01793/PP).

This application relates to the retention of a timber building within the curtilage of Dunans Castle and situated 60 metres to the north east of the castle itself. There is a larger timber outbuilding in the intervening space and a smaller timber log store adjacent. The building, measuring 4.5 x 5.5 metres with a shallow pitched roof, is chalet like in appearance with two doorsets and two windows. The building has a small awning on the north east elevation and is equipped with water, electricity and drainage to a septic tank shared with Dunans. The building is equipped with a shower room and wood burner.

The applicant has advised (e-mail dated 1 September 2014) that the office is used to administer and project manage the restoration of Dunans Castle and Bridge and to carry out various commercial activities which support the restoration. The office provides 3

desk spaces but the applicant intends to build a more permanent office within 24 months to provide 8 desk spaces, following which the present building will no longer be required.

The application site sits within Sensitive Countryside in the adopted Local Plan. As such, the application falls to be considered primarily against Policy LP BUS 2 which allows small-scale development in the sensitive countryside where the applicant can demonstrate a clear operational need, subject to consistency with other policies. However, although a need has been demonstrated, Structure Plan policy STRAT DC 5 would normally require an Area Capacity Evaluation (ACE) to be undertaken. No such ACE has been carried out in this case as it is not considered that an ACE would add significantly to assessment of this very small building which is only required for a temporary period and which only has localised consequences upon its surroundings.. In such circumstances, the proposal can be accepted as a 'minor departure' from these policies

The application site also sits within a Local Nature Conservation site. However, the application does not affect the pockets of Ancient Woodland embraced by that designation. The proposal does not therefore conflict with Policy LP ENV 8.

Notwithstanding that this building is sited some 60 metres from Dunans Castle, the department had concerns regarding the proliferation of outbuildings, some installed without planning permission, within the curtilage of this listed building. The cumulative impact of these outbuildings was considered to adversely affect the building's setting. This building was, therefore, considered not to accord with Policy LP ENV 13(a) of the Local Plan in the absence of firm proposals for rationalising the presence of outbuildings within the site. Accordingly, it was considered expedient to serve an enforcement notice requiring the building's removal within 9 months.

However the applicant elected to lodge an appeal against the service of that notice which was in the event allowed by the Reporter. Given that the appeal decision allows the building to remain until September 2017, no purpose would be served by refusing this application to retain the building for 36 months, as requested.

(Q) Is the proposal consistent with the Development Plan: No

(R) Reasons why Planning Permission should be granted

Although the proposal broadly accords with Policy LP BUS 2 of the Argyll and Bute Local Plan, retention of this building would be contrary to LP ENV 13(a) of the Argyll and Bute Local Plan in the absence of firm proposals to rationalise the presence of outbuildings in close proximity to Dunans Castle. However, following the service of an enforcement notice, retention of the building until September 2017 has been allowed on appeal and no purpose would be served by the refusal of permission to retain the building for 36 months, as requested.

(S) Reasoned justification for a departure from the provisions of the Development Plan

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close proximity to Dunans Castle. However, following the service of an enforcement notice, retention of the building until September 2017 has been allowed on appeal and no purpose would be served by the refusal of permission to retain the building for 36 months, as requested.

Structure Plan policy STRAT DC 5 would normally require an Area Capacity Evaluation (ACE) to be undertaken. Although no such ACE has been carried out in this case, it is not considered that an ACE would add significantly to assessment of this very small building which is only required for a temporary period and which only has localised consequences upon its surroundings.

(T) Need for notification to Scottish Ministers or Historic Scotland: No

Author of Report: Steven Gove

Date: 3 October 2014

Reviewing Officer: David Eaglesham

Date: 9 October 2014

Angus Gilmour
Head of Planning & Regulatory Services

CONDITIONS AND REASONS RELATIVE TO APPLICATION REF: 14/01500/PP

1 The development shall be implemented in accordance with the approved drawings:

- 1:10000 Location Office
- 1:2500 Location Office
- 1:500 Location Office
- 1:50 Plan view
- 1:100 Northeast and southwest elevations
- 1:100 Southeast and northwest elevations

unless the prior written approval of the planning authority is obtained for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997.

Reason: For the purpose of clarity, to ensure that the development is implemented in accordance with the approved details.

2. This permission shall cease on or before 31 August 2017 and immediately thereafter the building hereby permitted shall be removed from the site and the land restored to an equivalent condition to that of the land surrounding the development site.

Reason: To safeguard the long term setting of the Category B listed building, Dunans Castle

3. Notwithstanding the provisions of the Town and Country Planning (Use Classes) (Scotland) Order 1997 (as amended), the building shall be used solely for administrative purposes associated with the management and restoration of Dunans Castle and for no other business related purposes.

Reason: To underpin the locational need accepted in the granting of this temporary permission.