

**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 2008 relative to applications for Planning Permission or Planning Permission in Principle**

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**Reference No:** 11/01019/LIB

**Applicant:** Ee-Usk, North Pier, Oban

**Proposal:** Removal of Condition 4 relative to Listed Building Consent 10/01817/LIB (Demolition not to commence until contract let for re-development).

**Site Address:** Argyll Hotel, Corran Esplanade, Oban

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**DECISION ROUTE**

**(i) Local Government Scotland Act 1973**

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**(A) THE APPLICATION**

**(i) Development Requiring Listed Building Consent**

- Demolition of Argyll Hotel (category C(s) Listed Building) without compliance with condition 4 of listed building consent 10/01817/LIB requiring that demolition should not commence until a contract has been let for redevelopment.

**(ii) Other specified operations**

- N/A
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**(B) RECOMMENDATION:**

It is recommended that Listed Building Consent be refused for the reason given in this report

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**(C) HISTORY:**

**03/01811/LIB** - Demolish existing buildings at rear of property and construct new rear 3 storey extensions and refurbish existing hotel Argyll Hotel, Corran Esplanade, Oban, Argyll, PA34 5PZ - Application Approved - 27<sup>th</sup> January 2004

**03/01809/DET** - Demolish existing buildings at rear of property and construct new 3 storey extension and refurbish existing hotel Argyll Hotel, Corran Esplanade, Oban, Argyll, PA34 5PZ - Application Approved - 27<sup>th</sup> January 2004

**04/02426/DET** Erection of Three Flats (formerly staff housing) Argyll Hotel, Corran Esplanade, Oban, Argyll, PA34 5PZ - Application Approved - 5<sup>th</sup> April 2005

**04/01438/LIB** – Demolition of existing buildings at rear of hotel and erection of 2 Town Houses, Argyll Hotel, Corran Esplanade, Oban, Argyll, PA34 5PZ - Application Approved - 3<sup>rd</sup> November 2004

**04/01436/DET** – Demolition of existing buildings at rear of hotel and erection of 5 Town Houses, Argyll Hotel, Corran Esplanade, Oban, Argyll, PA34 5PZ - Refused - 3<sup>rd</sup> November 2004

**04/01434/LIB** – Change of use of and alterations to hotel to form 8 flats with ground floor restaurant and public house, Argyll Hotel, Corran Esplanade, Oban, Argyll, PA34 5PZ - Application Approved - 1<sup>st</sup> October 2004

**04/01433/COU** - Change of use of and alterations to hotel to form 8 flats with ground floor restaurant and public house Argyll Hotel, Corran Esplanade, Oban, Argyll, PA34 5PZ - Application Approved - 1<sup>st</sup> October 2004

**04/00053/LIB** Demolish and construction of new extension to rear of property and refurbishment, Argyll Hotel, Corran Esplanade, Oban, Argyll, PA34 5PZ - Application Approved - 5<sup>th</sup> April 2004

**04/00052/DET** - Demolish Buildings at Rear of Property and Construct New Rear Extension; Refurbish Existing Hotel - Argyll Hotel, Corran Esplanade, Oban, Argyll, PA34 5PZ - Application Approved - 5<sup>th</sup> April 2004

**05/02290/DET**- Erection of 6 Flats, Argyll Hotel, Corran Esplanade, Oban, Argyll, PA34 5PZ - Application Refused - 13<sup>th</sup> January 2006

**05/00485/DET** - Erection of Six Flats (rear of Argyll Hotel) Argyll Hotel, Corran Esplanade, Oban, Argyll, PA34 5PZ - Application Refused - 12<sup>th</sup> July 2005.

**05/00002/REFPLA** - Appeal against refusal of consent for Demolition of existing buildings at rear of hotel and erection of 5 Town Houses, Argyll Hotel, Corran Esplanade, Oban, Argyll, PA34 5PZ - Appeal Withdrawn – 16<sup>th</sup> February 2005

**05/00021/COND** - Appeal against condition(s) imposed on application for removal of condition No.2 on planning permission ref no. 04/02426/DET relative to the flats use being restricted to holiday accommodation only - Appeal Dismissed – 25<sup>th</sup> July 2005

**05/01547/DET** - Erection of Six Flats (rear of Argyll Hotel) Argyll Hotel, Corran Esplanade, Oban, Argyll, PA34 5PZ - Application Refused - 9<sup>th</sup> November 2005

**05/00771/VARCON** - Application for removal of condition No.2 on planning permission ref no. 04/02426/DET relative to the flats use being restricted to holiday accommodation only, Argyll Hotel, Corran Esplanade, Oban, Argyll, PA34 5PZ - Application Refused - 6<sup>th</sup> July 2005

**06/00145/ENFLB** - Poor State of Repair of C(S) Listed Building. ENF001 - Amenity Notice Served - 20<sup>th</sup> November 2006

**07/00644/DET** – Alterations and extension to the Argyll Hotel, Oban to form Public Bar and Flats, Argyll Hotel, Corran Esplanade, Oban, Argyll, PA34 5PZ - Application Approved - 3<sup>rd</sup> January 2008

**07/00643/LIB** - Construction of nine new permanent flats and associated stair towers to rear of hotel building Argyll Hotel, Corran Esplanade, Oban, Argyll, PA34 5PZ - Application Approved - 3<sup>rd</sup> January 2008

**09/00222/ENOTH1** - Interim interdict to restrain owner from carrying out unauthorised works of demolition - 16<sup>th</sup> February 2009.

**09/00222/ENOTH1** - Demolition of a listed building - Amenity Notice Served - 22<sup>nd</sup> May 2009

**10/01817/LIB** – Listed building consent granted for demolition of hotel 31<sup>st</sup> May 2011

**10/01831/PP** – Demolition of hotel and erection of new 63 bedroom hotel - Argyll Hotel, Corran Esplanade, Oban, Argyll, PA34 5PZ – Granted 20.04.11

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**(D) CONSULTATIONS:**

**Historic Scotland (4<sup>th</sup> August 2011)** – The perceived economic benefit associated with the redevelopment of this site to provide a modern hotel was a key element of the justification for the demolition of the Argyll Hotel. In our view, it is important that this listed building is only demolished if it is clear that redevelopment is to take place. No detailed account of the issue has been provided with the application and we would recommend that this is sought from the applicant. If there is clear justification that the wording of the condition is an impediment to the development taking place, a legal agreement may be an appropriate alternative solution.

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**(E) PUBLICITY:**

The application has been advertised by way of a Site Notice and in the Oban Times/Edinburgh Gazette - Listed Building/Conservation Advert – expiry date 21<sup>st</sup> July 2011.

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**(F) REPRESENTATIONS:**

None

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**(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

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- (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 & Bute Structure Plan' (Approved 2002)

Policy STRAT SI 1 – Sustainable Development

Policy STRAT DC 1 – Development within the Settlements

Policy STRAT DC 9 – Historic Environment & Development Control

'Argyll & Bute Local Plan' (Adopted 2009)

Policy LP ENV 13(b) – Demolition of Listed Buildings

Policy LP ENV 14 – Development in Conservation Areas and Special Built Environment Areas (SBEA)

Appendix A: Listed Buildings & Special Built Environment Areas

- (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.**

- Scottish Planning Policy
  - Scottish Historic Environment Policy, 2008 (SHEP)
  - Managing Change in the Historic Environment – Demolition
  - Scottish Government Circular 4/1998 Use of Conditions in Planning Permissions
  - Scottish Government Circular 1/2010 Planning Agreements
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- (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
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**(M) Has a sustainability check list been submitted: No**

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

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**(O) Requirement for a hearing: No**

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

The issue in this case is whether a condition attached to listed building consent for the demolition of this building ought to be removed. The condition in question provided that demolition of this listed building ought not to take place until there was certainty that permitted redevelopment of the site to provide a replacement hotel would follow, and that was to be secured by evidence being provided by the developer to the Council that a contract was in place for the implementation of the redevelopment of the site, in advance of demolition works being commenced.

The applicant contends that this condition is onerous and acts as an impediment to the implementation of the development as a whole. As an alternative to appealing the condition to Scottish Ministers, he has elected to apply to the Council for the removal of the condition. In such circumstances the onus is on the prospective developer to demonstrate why he is unable to adhere to the requirements of the condition, and to advance any measures which he is in a position to offer by way of mitigation. However, in this case, although the owner of the building claims that the effect of the condition is to frustrate the development, that claim is on the basis of an assertion on his part, rather than on the basis of any argued case corroborated by the professional opinion of property valuers, development financiers or any other third party evidence which could help substantiate such a claim.

The purpose of the condition is to prevent the removal of a building until there is reasonable certainty that redevelopment will follow. This prevents the prospect of there being a long gap between works of demolition and redevelopment, or potentially, a site being cleared and no redevelopment whatsoever taking place. The use of such a condition avoids unsightly gap sites within important areas of townscape such as this, and potential demand for problematic cleared sites being redeveloped for purposes other than those envisaged at the time consent was granted for demolition.

Historic Scotland are clear that the principal reason for them not seeking to intervene in the Council's decision to permit demolition, was the economic benefit case argued by the applicant in support of the replacement hotel. Without such benefits accruing from the provision of a new hotel in support of the Oban tourism economy, on the basis of the criteria for the consideration of demolition requests as set out in 'Scottish Historic Environment Policy', the applicants would not have been able to have satisfied the requirements of government policy in respect of the demolition of listed buildings.

Planning conditions are only to be imposed where they satisfy the 'six tests' established by case law, and which are replicated in Circular 4/1998. These require that a condition must be *necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects*. In this case, the condition applied satisfies all of those tests, and importantly, its imposition safeguards the position adopted by Historic Scotland that there must be a guaranteed link between the loss of

the historic asset and the realisation of the redevelopment advanced in support of such loss.

.Members should note that such a condition is widely used in demolition/redevelopment cases involving listed buildings or the demolition of unlisted buildings in conservation areas, and to that end, the condition is not one which is novel or spurious. Indeed, it is one of wide applicability which indicates the need for the applicant to have advanced an exceptional case for its removal. The applicant has been invited to elaborate upon his request but has declined to do so and wishes the application to be determined as it stands. Officers have advised that a Section 75 legal agreement might provide an alternative means of safeguarding Historic Scotland's and the Council's position whilst giving additional comfort to the developer and his financiers. It would however be for the applicant to advance the detail of any proposed alternative approach, given the Council's satisfaction with the terms of the condition as imposed. No alternative mechanism has been suggested by the applicant and therefore the application is simply for the deletion of the condition.

In the absence of any coherent argued case on a site specific basis in support of the removal of the condition, as there is no justification for deviation from normal planning policy considerations, and it is recommended that the application be refused, as the granting of listed building consent without such a safeguard in place would not satisfy the requirements of development plan policies STRAT DC 9 or LP ENV 13(b) and associated government advice. .

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

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**(R) Reasons why listed building consent should be refused**

See reason stated elsewhere in this report.

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

N/a

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**(T) Need for notification to Scottish Ministers or Historic Scotland:**

In the event that Members are minded to grant listed building consent for demolition without condition 4 as previously imposed to satisfy Historic Scotland's requirements, the application is required to be notified to Historic Scotland, thereby affording the opportunity for Scottish Ministers to give consideration to the need to 'call-in' the application for their own determination.

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**Author of Report: Richard Kerr**

**Date: 1<sup>st</sup> October 2011**

**Angus Gilmour  
Head of Planning and Regulatory Services**

## **REASON FOR REFUSAL RELATIVE TO APPLICATION 11/01019/LIB**

1. The granting of listed building consent for the demolition of this Category C(s) listed building is inextricably linked with the associated proposals for which planning permission has been granted to redevelop the site for a modern hotel building. The approved redevelopment proposal was advanced and accepted as being integral to the case for demolition, as the anticipated economic benefit associated with the redevelopment of this site to provide a replacement hotel was a material factor in the ability of the proposal to be able to satisfy the criteria for the acceptance of the demolition of listed structures, as set out in Scottish Historic Environment Policy (2008). Removal of the condition in question would therefore introduce uncertainty as to when, and if, redevelopment proposals would necessarily follow, and could lead to premature demolition of the building and a potentially long-standing gap site, which would be harmful to townscape character, the Special Built Environment designation of the area, and the settings of adjoining listed buildings. It would not therefore secure a consent which would satisfy those considerations which were instrumental in the grant of listed building consent for demolition in the first instance, and without such a condition, the proposal fails to meet the requirements of development plan policies STRAT DC 9, LP ENV 13(b) and LP ENV 14 or the associated government advice set out in Scottish Historic Environment Policy (2008) and Historic Scotland's Managing Change in the Historic Environment – Demolition (2010)

**APPENDIX B – RELATIVE TO APPLICATION NUMBER: 11/01019/LIB**

**PLANNING LAND USE AND POLICY ASSESSMENT**

## **A. Introduction**

Listed building consent has been granted by the Council for the demolition of the derelict Argyll Hotel on the Coran Espanade in Oban. The building has been vacant and deteriorating for a number of years, given that it does not lend itself to occupation as a modern hotel by virtue of its construction and layout and due to the fact that it has been progressively deteriorating in terms of its structure and its fabric, with consequent adverse consequences for the townscape of this part of the town. The Argyll Hotel itself was given a category C(s) listing by Historic Scotland in 1995. It has been the subject of 4 building phases of early, earlier, mid-to-late and late 19<sup>th</sup> century. The buildings are traditional in style with Scots Baronial embellishments to the upper floors. It comprises a 10-bay frontage, comprised of 3 terraced buildings on the Corran Esplanade and prior to past unauthorised demolition, an adjoining annexe to the rear. The walls to the street elevation are painted, coursed rubble and to the rear are random rubble. There are droved dressings and raised margins with projecting cills to the window openings. Historic Scotland's listing team reviewed the building in 2009 and concluded that it warranted continued protection as a listed building.

Historic environment policy as set down by the government and also set out in development plan policy, seeks in principle to avoid the demolition of listed structures other than where there is justification in terms of the policy criteria set out in 'Scottish Historic Environment Policy'. In this case, at the time the original listed building consent for demolition was granted, both the Council and Historic Scotland accepted that the condition of the building was an impediment to its refurbishment, and that there was a persuasive case for demolition and redevelopment with a modern hotel building, in the interests of the tourism economy of the town. With that in mind, the listed building consent for demolition and the planning permission for redevelopment were linked by way of a condition imposed upon the former, which required that the works of demolition ought not to commence until a contract had been let for redevelopment. The purpose of this was to avoid premature demolition and to guarantee that the consents would be implemented hand in hand, thereby ensuring that the justification accepted for the demolition would be realised by the obligation to implement the permission for redevelopment.

## **B. Scottish Historic Environment Policy (2008) - (SHEP)**

This document, in association Scottish Planning Policy on the Historic Environment (SPP 2010), expresses Scottish Ministers' policy on the historic environment. It indicates that protection of the historic environment is not about preventing change. Change in this dynamic environment should be managed intelligently and with understanding, to achieve the best outcome for the historic environment. SHEP recognises that once lost listed buildings cannot be replaced. There is, therefore, a presumption against demolition or other works that adversely affect the special interest of a listed building or its setting.

Where the application proposes the demolition of a listed building, such as in this instance, the SHEP policy requires that they provide evidence to show that at least one of the following criteria has been satisfied:

- 1) the building is not of special interest; or
- 2) the building is incapable of repair; or
- 3) the repair of the building is not economically viable and that it has been marketed at a price reflecting its location and condition to potential restoring purchasers for a reasonable period; or;
- 4) the demolition of the building is essential to delivering significant benefits to economic growth or the wider community.



Although SHEP establishes a presumption in favour of retention of listed buildings it recognises that decisions on the fate of individual buildings often have to take into account economic realities. In granting consent for demolition of this building, it was concluded by the Council and Historic Scotland that the best outcome for the historic environment in this case, given the dilapidation of the building and the absence of any apparent viable options for its re-use, was the demolition of the Argyll Hotel, in the interests of protecting the settings of adjoining listed buildings and maintaining the qualities of the Special Built Environment Area.

In acceding to consent being granted, Historic Scotland accepted that one of the SHEP criteria was met in this instance (only one is required to be met) and that it is likely that a second could be met, although the applicant had failed to provide a consolidated case to provide sufficient assurance that this was absolutely the case.

The case for demolition was therefore accepted by both the Council and Historic Scotland on the grounds that repair of the building would not be economically viable in and on the basis of economic and community benefit, associated on the one hand with the removal of this problematic and deteriorating building, and on the other with the opportunity which redevelopment of the site would offer in terms of the development of the local tourism economy. Accordingly the demolition of this Grade C(s) building is was deemed to be consistent with the balanced approach advocated by Scottish Historic Environment Policy (2008), but most importantly on the basis that demolition and redevelopment would go hand in hand, and that this position would be adequately safeguarded by the imposition of the condition in question in conformity with Historic Scotland advice and local plan policy.

### **C. Managing Change in the Historic Environment – Demolition**

Historic Scotland's advice to planning authorities is contained in a series of publications addressing 'Managing Change in the Historic Environment' (2010). The document covering demolition indicates that applications should be assessed against the following tests: importance of the building; condition of the building; economic viability of reusing the building; and, wider public benefits, in line with national policy. To obtain consent for demolition, applications need to meet at least one of these tests.

In terms of the implementation of permitted works of demolition, Paragraph 6.4 states that:

*Demolition should not begin until evidence is given of contracts let either for the new development or for appropriate long-term treatment as open space where that outcome conforms to the character of the area. Gap sites could be harmful to the character of the area if allowed to lie undeveloped for a significant time between demolition and redevelopment.*

The requirement to have regard to this policy position is further set out in Policy LP ENV 13(a) of the 'Argyll and Bute Local Plan'. Removal of the condition in question, without demonstrable justification would conflict with both Managing Change advice and local plan policy.

### **D. Development Plan Policy**

The application requires to be assessed in terms of policies STRAT SI 1, STRAT DC 9 and LP ENV 13(b) in respect of the demolition of a listed building and the consequences for adjacent listed buildings, and in terms of Policy LP ENV 14 in terms of the consequences for the Special Built Environment Area established by the local plan. These policies essentially reflect the overall approach to the historic environment established by national policy and discussed in the preceding sections.

Policy STRAT SI 1 of the Argyll & Bute Structure Plan (approved 2002) states that the Council must seek to: maximise the opportunity for local community benefit; make efficient use of vacant and/or derelict brownfield land; conserve the built environment and avoid significant adverse impacts on built heritage resources. Policy STRAT DC 9 advocates a proportionate and realistic approach which is given greater expression in the case of demolition by local plan Policy LP ENV 13(b). The justification to Policy STRAT DC 9 of the Council's Structure Plan indicates that the strength of protection is proportionate to the importance of the asset in question and that there is a need to respond positively to modern needs innovation and change. It goes on to say that a balanced proportionate approach is the underlying intention of the Structure Plan policy on the historic environment. In adopting such a proportionate response in this case, it is necessary to have regard to:-

- the inherent qualities of the building,
- its grading and status (as a category C(s) listed building),
- the extent to which it blights other properties (including adjacent higher category listed buildings),
- the negative impact it has on the townscape qualities which contribute to Oban's tourist draw,
- the degree to which it is inhibiting investment in this high profile town centre location, due not only to its derelict condition, but also given that it is ultimately unsuited to the modern day needs of a growing and rapidly evolving tourist industry;
- the Scottish Government's prioritisation of economic growth, with tourism identified as a key growth industry and given further justification through the Council's 'Economic Development Action Plan' (2010 -2013), with tourism in Argyll and Bute considered as one of our most important industries and affording the best potential for economic growth.

In accepting the case for the demolition of this problematic building, consideration was given by the Council and Historic Scotland at the same time to what were advanced by the applicant as associated redevelopment proposals affording the opportunity to secure a new modern high quality hotel development in the town, which would be significant not only in enhancing the built environment, but which would represent a major asset to the Oban tourism economy. In weighing historic environment and tourism economy considerations in the balance, it was considered that the proposal to demolish the Argyll Hotel would be consistent with the provision of Policies STRAT SI 1 and STRAT DC 9 of the 'Argyll & Bute Structure Plan' (approved 2002).

Local Plan Policy LP ENV 13(b) specifically addresses cases where demolition is proposed. It is predicated by the principle that demolition will only be supported in exceptional cases where effort has been exerted by all concerned to find practical ways of keeping a building, where it is clear that its condition precludes re-use for modern purposes and where it has been marketed unsuccessfully. In granting consent for demolition, it was accepted that the building did not lend itself to modern hotel use, and to that extent, demolition of the building would satisfy the requirement of Policy LP ENV 13(b) as the building would be regarded as being incapable of use for modern purposes at economic cost and secondly, the demolition of this building would be considered necessary to secure the delivery of significant benefits to economic growth or the wider community in Oban.

However, the ability to realise the redevelopment proposals was a significant material consideration in the acceptability of the application for listed building consent for demolition. Dissolution of the link between the implementation of these inter-related development proposals, by removal of the condition in question, would undermine the arguments advanced, and ultimately accepted, as part of the case for demolition, to the point at which that case would fail to meet the tests established by SHEP and the policy position set out in 'Managing Change in the Historic Environment,' and in turn, would not satisfy Structure and Local Plan policy requirements.

#### **E. Request for removal of condition**

Condition 4 of listed building consent 10/01817/LIB specifies:

*The demolition of the building shall not proceed until satisfactory evidence has been submitted to the Planning Authority to show that a contract has been let for the redevelopment of the site in accordance with proposals for which planning consent has been obtained.*

The terms of this condition satisfy Historic Scotland's requirement that premature demolition ought not to take place in advance of redevelopment works being committed. It also takes cognisance of the requirements of Section D of Local Plan policy LP ENV 13(b), which requires consideration being given to the need for such a requirement. In the case of this important and prominent site on the main road through Oban town centre, and having regard to the adverse implications of premature demolition for the settings of adjacent and nearby listed buildings it was considered that such a condition was fundamental to the acceptability of the case for demolition.

The Argyll Hotel is located within a 'Special Built Environment Area' as defined by the 'Argyll & Bute Local Plan' (adopted 2009 between the Regent Hotel (category B listed) and the Oban Inn (category B listed) and faces the Columba Hotel (category B listed) on the opposite side of the Esplanade. To the rear of the building, there is a terrace of listed (category B) former houses (now completely surrounded and dwarfed by later tenements to the George Street, Stafford Street, and Corran Esplanade, accessible only by a vennel at the north east end corner of the block and a pend beneath the Argyll Hotel) known as 'Charles Street'. The locality is therefore one of significant value in historic environment terms.

The site owner and prospective developer contends that the condition is unreasonable and acts as an impediment to the clearance of the site and his proposals to redevelop the land for a new hotel. Given the wide applicability of such a condition nationally, and its track record in the case of the redevelopment of other sites occupied by listed structures or unlisted buildings in conservation areas, he has been asked to specify those particular impediments which pertain in this case, and why there might be justification for departing from normal policy considerations and dispensing with the condition.

It has been suggested to him, that if a coherent case were to be presented substantiated by property valuers and/or development financiers, then consideration could be given to removal of the condition and its possible substitution by a legal agreement more closely aligned to the circumstances of the case, which could still safeguard the interests of the Council and Historic Scotland, whilst providing the necessary level of comfort to those financing and implementing the project. He has declined to provide a site specific justification or to advance any suggested alternative approach, and simply seeks to rely on assertions that it is not possible for him to implement the development with this condition in place.

His position is summarised in an e-mail of 27<sup>th</sup> September 2011 circulated to Members which reads as follows:

*We would like to convey to you our commitment to building a new hotel on the site of the old Argyll. The Argyll was purchased by us in April 2008, at that time money was easy to borrow for new projects in the tourist industry. Shortly after that, recession hit, and investment finance became difficult to access. Lending agencies are no longer able to accept a notional value of land.*

*The cleared site value of the Argyll is more than double that of the existing. We need that cleared site valuation in order to raise the 35% of borrowings we require. The condition that the contact be let prior to demolition is preventing us from raising that capital!*

*We have been in business in Argyll for over 25years, the last 12 years in Oban, where we employ 65 people. We rely on the people of Oban for the success of our business. The people of Oban have an expectancy of us to build the new hotel, they are well aware of our commitment to do just that. Were we to deviate from our expressed intention, it would be extremely detrimental to the reputation we have established.*

*It is in all our interest to have the new hotel up and running at the earliest possible date as every delay is costing us dearly.*

*As agreed by all parties the building is beyond repair. Once demolished you have control of how we hoard the cleared site. We have now invested over £400,000 on the Argyll. Our commitment to this development is absolute.*

*Will you please now reconsider your position.*

The situation regarding the condition from the Council's point of view, is that it has been imposed for sound planning purposes, that it satisfies national advice and local plan policy considerations, and that it meets the 'six tests' for the imposition of planning conditions set out in Circular 4/1998. Planning conditions should only be imposed where they make a difference between the acceptability or otherwise of a development. In this case, the need for the condition was clear at the time it was imposed and in the absence of any more refined mechanism expressed via a legal agreement proposed by the applicant and accepted by the Council as a suitable alternative, it remains so.

The owner and prospective developer's argument as set out above is that the value of the site once cleared is double that of the existing. He has not provided professionally qualified opinion to support such a claim by way of any pre- and post-demolition valuation of the site. In the absence of such, an opinion on the extent to which the presence of the building will affect the asset value in terms of the ability to raise development finance has been sought from the Council's Estates Surveyors. Their view is that unless there is a structural problem with the Argyll Hotel requiring its immediate demolition (which there is not) then the condition imposed ought not to be a problem. (The Council's Building Standards officers are regularly monitoring the condition of the building - last inspection 27.09.11 - and subject to safety fencing, boarding of windows and other associated measures being in place, they confirm that at the present time the building does present an uncontrolled risk to members of the public). The site value pre- and post-demolition will only vary by the cost of the demolition. The site value would also vary with planning consent, but given that consent is for a replacement hotel in this case, then planning permission is not a factor, only the cost of the demolition.

The ideal solution in this case from a financing point of view would be to demolish the existing hotel immediately prior to the construction of the replacement building, thereby avoiding having to pay interest on the cost of demolishing the old hotel over an extended period of time. It could very well be that the demolition and the new build are different contracts on the basis that say a hotel operator will take on a vacant site but does not wish to be involved with demolition of an existing building. However, that said, the best solution is still to tie up the new building contract and make that dependant on the demolition of the old building and fix the timing so the old building comes down as close to the start date for the new build as possible, allowing an element for delays, etc.

If the link between demolition and redevelopment is broken, and if the condition were to be removed, as requested by the site owner, then despite his best intentions, there remains the prospect that redevelopment might not follow, for a range of reasons not necessarily all in his control, in which case an unsightly gap site would ensue which would be more harmful to amenity in townscape terms than the retention of the albeit dilapidated building, the structural condition of which does not justify immediate demolition. This could then prove to be a long-term problematic site which could lead to demand for redevelopment for purposes other than the envisaged hotel use, which was instrumental in the decision to accept demolition of the existing hotel in the first instance.

Given that the applicant claims that the condition is an insurmountable impediment, officers have consulted with Glasgow City Council as to their experience with the applicability of the condition in question, given that there will be a greater incidence of demolition and redevelopment of listed structures in the context of a city authority. They have confirmed that in cases of demolition of a listed building, or a building in a conservation area, it is their standard practice, over many years and following current SHEP guidance, to impose a suspensive condition to control the timing of the demolition. That condition would require evidence to be submitted to the Council demonstrating that there is a contractual commitment to implement the replacement building/development before demolition of the existing building can take place. It is the view of the Principal Planning Officer for their City Centre Team that this procedure works reasonably well, and he does not recall anyone challenging such a condition, either at appeal or through a further application to delete the condition.

In the case of the current application, the prospective developer is effectively asking Members to proceed on the basis of trust and that he should be allowed to demolish the building forthwith, on the basis that he will proceed with redevelopment thereafter. Whilst there is no reason necessarily to question his motives or his sincerity, in that scenario, there would remain many uncertainties, including factors outwith his control, which could influence the timing of redevelopment, whether a hotel development would follow, or if the site were to remain in a vacant state for a long period of time.

The location of this building a close quarters with other listed buildings in the town centre requires particular consideration in terms of the damage which could be caused to the townscape of this important tourist centre in circumstances where uncontrolled demolition could lead to a situation of uncertainty and possibly lasting adverse impact on its surroundings. It is not therefore a case where normal policy considerations ought to be dispensed with lightly, as the ramifications cannot be predicted with certainty. Only by means of linking the commencement of demolition with a contractual commitment to redevelop can certainty be achieved; hence the purpose of imposing the condition in the first place.

Without maintenance of a guaranteed link between redevelopment proposals and works of demolition, the case for having granted listed building consent for demolition is fatally undermined. In such an event, the demolition would cease to be enabling work associated with the achievement of a wider proposal, and would simply become an independent operation in its own right, capable of implementation without any assurance

of when, and if, redevelopment might follow, and whether momentum for hotel redevelopment (as opposed to demand for some other form of development) might be sustained.

Removal of the condition in question would not therefore secure a consent which would satisfy those considerations which were instrumental in the grant of listed building consent for demolition in the first place, and without such a condition (and in the absence of some appropriate alternative mechanism being advanced by the applicant), the intended demolition of this listed building fails to meet the requirements of development plan policy and associated government advice.