

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

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

SUPPLEMENTARY REPORT No 1

(A) INTRODUCTION

This application was continued from the meeting of 19th October 2011 in order to invite the applicants to meet with officers to establish whether the suggestion of a legal agreement between the applicants and the Council could safeguard the positions of both parties and potentially enable the condition in question to be removed. This report is to acquaint Members with the applicants' response and with the outcome of a recent structural survey commissioned by them.

(B) ADDITIONAL INFORMATION

At Members' request, officers have on three occasions contacted the applicants indicating Committee's wish that they should enter into further dialogue with planning and/or legal officers of the Council, firstly, to explore the circumstances which have prompted the applicants to content that the condition is an impediment to the financing of the redevelopment of the site once the listed building has been demolished, and secondly, whether a Section 75 agreement to the satisfaction of both parties could be tailored to the particular circumstances, thereby enabling the removal of the condition.

The applicants' response has been to suggest that the Council's legal officers should propose a suggested legal agreement and they have not indicated willingness to attend a meeting to discuss the circumstances prompting the need to consider such a course of action. In the circumstances of the application, it is incumbent on the applicants to propose an alternative course of action in order to support their request to remove a condition. Officers are not party to the reasons why development is inhibited by the effect of the condition and it would be difficult to frame terms of a suggested agreement in the absence of a proper understanding of the applicant's concerns and what they consider would be a practical way forward in terms of securing development finance for the project.

In the absence of a meeting, the applicant's have asked that I should bring Members attention to the fact that their solicitor was asked to come up with a form of words which might satisfy the Council, but it was his suggestion that the Council should draft an agreement which was the least onerous it was able to accept. They have also asked me

to remind Committee that they have been in business in Argyll for 25 years and employ 68 people, and have operated every business they have had planning permission for.

The applicants have recently commissioned a new survey of the building by a chartered structural engineer, the contents of which have been supplied to the Council. This concludes that:

1. The building is in a dangerous condition to any unwitting trespassers or children gaining illegal entry.
2. The mechanics of the structural form of the building rely on the walls supporting the floors but also the floors (and roof) restraining the walls. Prolonged periods of water ingress have affected the integrity of the timber floor and roof structural members and thus have compromised the stability of the main front and rear walls due to the effective removal of the bracing at each floor level. Hence, the front and rear walls are vulnerable to collapse under unfavourable wind loads causing suction thereto. Consequently, the building should be considered dangerous from this aspect also, and appropriate bracing should be applied to at least part of the front wall as soon as possible.
3. The building is unlikely to survive the effects of a severe winter subjecting deep snow loading to the defective roof and floor structures. Collapse of the roof will undoubtedly lead to collapse of the 3rd and 2nd floors, thus leading to probable collapse of the front wall.
4. The link building to the rear wall should be subject to controlled collapse and a system of bracing installed to replace the effective buttressing removed on demolition.
5. Access to the building should be prevented in order to protect would be trespassers from serious injury by falling through floors.
6. The safest solution to deal with the various dangers posed by the current condition of the building is to bring forward the impending demolition.

In response, the Council's Building Standards Manager has instructed our own consultant engineers to further inspect the property and has asked for their opinion of the report's recommendations and timescales. The outcome of this is not available at the time of writing, but will be reported at the meeting.

The Council does, of course, have responsibilities under Building Standards legislation in respect of structures which pose an imminent risk of collapse or otherwise endanger public safety, and Notice may be served requiring partial or total demolition, propping or some other appropriate remedial measures to remedy apprehended danger. Additionally, the owner has a statutory defence against prosecution under listed building legislation where works become '*urgently necessary in the interests of safety or health*' in circumstances where works of repair or works affording temporary support or shelter would not suffice, and where the works carried out are the minimum immediately necessary.

In both cases, listed building consent is not required provided that notice in writing is given to the Council as Planning Authority and Historic Scotland before such urgent works are carried out if possible, or failing that, as soon as practicable following the execution of those works. Should the need for such urgent action on grounds of immediate danger be agreed in the light of the Council's consideration of the findings of the recent structural survey, then public safety would prevail over historic environment considerations and compliance with the condition in question would not be an issue.

Members might like to note that the applicants have arranged to meet with the Chief Executive and the Director of Development and Infrastructure Services on 16th November 2011 to discuss the overall circumstances of the redevelopment of the Argyll Hotel. It is possible that some further progress in the matter at hand may ensue from this, in which case it would be reported to Committee verbally.

However, the position at the time of writing, given the lack of corroboration as to the recommendations of the consultant structural engineer, and in the absence of any meaningful progress as to any suggested alternative to the continued effect of the condition, is that it remains inappropriate that the condition should be removed for the reasons given in the original report.

(B) RECOMMENDATION:

It is recommended that Listed Building Consent be refused for the reason given in the report to Committee of 19th October 2011.

Author of Report and contact officer: Richard Kerr

Date: 7th November 2011

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