



ENVIRONMENT AND PROTECTIVE SERVICES COMMITTEE: 24 AUGUST 2010

APPLICATION FOR LISTED BUILDING CONSENT FOR THE DEMOLITION OF THE FACTORS HOUSE, RODEL, ISLE OF HARRIS (REF NO 10/00223LBC)

Report by Director of Development

PURPOSE OF REPORT

Since this proposal is sensitive and has received three or more letters of representation from separate parties, which contain matters, which are relevant material planning considerations, the application cannot be dealt with under delegated powers and is presented to the Comhairle for a decision.

COMPETENCE

- 1.1 There are no legal, financial or other constraints to the recommendation being implemented.

SUMMARY

- 2.1 This is an application for Listed Building Consent by Donald Macdonald, Rodel Hotel, Isle of Harris for the demolition of the "Factor's House" near the Rodel Hotel, Isle of Harris. The building is listed but its condition at the time of listing was not considered to merit more than Category C. Since then the building has deteriorated and has recently become the subject of concern to the Community Council who wish to have the building demolished. However, as noted by the Scottish Civic Trust in their response to the statutory consultation process and by representations received voicing concern over the proposed demolition, this is considered to be a significant building built around 1780 when Rodel became the centre of a fishing enterprise. Nevertheless, it is acknowledged that the building which is on the Buildings at Risk register has been derelict for a number of years dating back to the time it was first listed in 1994 when it was described as roofless and acknowledged as derelict.
- 2.2 It has been proposed that because the building has been in this derelict state for many years without significant deterioration some consolidation work would allow the building to survive until such time as a restorer and new use could be found. However, both the report from the applicant's Structural Engineer and the Comhairle's Building Standards Service describe the building as slowly deteriorating with stonework having fallen from the walls and the south chimney collapsed. One gable has a distinctive bulge forming where stonework has fallen out. The applicant argues that the restoration of the building is not economically viable and this view is supported by the structural survey required by the Development Plan policy to support demolition of listed buildings. The close proximity of the building to a public road and to the public waste skip makes this a potentially dangerous building, which cannot be easily fenced off to protect the public. Historic Scotland's Scottish Historic Environment Policy makes clear there is a presumption against demolition or other works that adversely affect listed buildings. However, the building now presents a potential danger to the public and for that reason it is recommended that Historic Scotland be notified of the Comhairle's intention to approve demolition.

RECOMMENDATION

- 3.1 It is recommended that Historic Scotland be advised of the Comhairle's intention to approve the demolition of the Factors House, Rodel, Isle of Harris.**

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| Contact Officer | Name: Cathy Leary Telephone: 01851 709316 Email: cleary@cne-siar.gov.uk |
| Appendix 1 | Schedule of proposed Conditions |
| Appendix 2 | Location Plan |
| Background Papers | None |

BACKGROUND

- 4.1 This is an application for listed building consent to demolish the “Factor’s House” at Rodel, Isle of Harris. The front of the building is located approximately two metres from the verge of the main A859 public roadway that goes down to the pier. The site is also adjacent to a site used by the public waste skip. The building is described in the Statutory List as industrial/part domestic and part of Captain Macleod’s fishery development programme of the 1780s at Rodel. The building which is Category C listed is described as of harled rubble, gabled, and roofless 3-bay front and rear elevations on two levels. The 1994 listing also describes a low wing on the south, which is also described as gabled and roofless. This wing has now collapsed and is no longer visible and there is no clear evidence of harling to the building. There is no roof, floors or inner partitions to the building and the original timber lintels on the inner face of the wall have decayed leaving unsupported walls around the inner face of all doors and windows. During a recent site visit by the Comhairle’ Building Standards Service further signs of deterioration of the structure were noted including a recently fallen stone lintel on the roadside elevation, a more pronounced bulge in the stonework, partial collapse of a single extension to the rear, the stonework on the remaining chimney in danger of collapse and unsupported pieces of stone balanced on the wall head next to the road verge.

REPRESENTATIONS

- 5.1 Representations have been received from the following:
- Iain Anderson, Threatened Buildings Survey Royal Commission on Ancient and Historical Monuments of Scotland.
 - Mairi Robertson, The Schoolhouse, Scarista, Isle of Harris.
 - The Scottish Civic Trust, The Tobacco Merchants House, 42 Miller Street, Glasgow.
 - Lewis and Harris Buildings Preservations Trust, 47 Goathill Road, Stornoway.
- 5.2 The full terms of the representations can be read on the file at the Development Department. However, they can be summarised as follows:
- The building is a rare example of stone and lime traditional building and should not be demolished but put on the market as a holiday or permanent home.
 - The building is a very significant one for Rodel as part of a set piece on the Rodel harbour. Scottish Ministers policy states that no building should be demolished unless it can clearly be demonstrated that every effort has been made to retain it.
 - The building, which is on the Buildings at Risk Register, has been derelict for a number of years and with some consolidation work could last until a new restorer is found.
 - The application does not satisfy the local plan policy criteria.
 - The applicants must notify RCAHMS before demolition to allow the property to be recorded.
 - The development does not comply with Structure Plan policies, is not in accordance with national policy context.
 - The Factor’s House is a unique part of the historic environment record from a period of Western Isles history.

RESPONSES TO CONSULTATION

HISTORIC SCOTLAND

- 6.1 The Factor's House, Rodel appears to date from Captain Macleod's fisheries development of the area in the late eighteenth century and contributes to the understanding of the historical development of Rodel. The design of the building is also of interest, two storey east elevation, single storey west elevation originally with a single storey outhouse now removed.

We are aware Building Standards have raised serious concerns over the condition of the stonework, recommending demolition on public safety grounds, due to the buildings proximity to the public road, access to the shore and public waste skip. This has resulted in the current demolition proposal.

We have reviewed the structural report submitted as part of the application. This report highlights significant issues with the structure but does not in our view justify demolition on these grounds alone and in relation to the tests outlined in paragraph 3.50 of Scottish Historic Environment Policy (SHEP).

We note the provision within the adopted local plan for demolition on public safety grounds, provided the building is incapable of being brought back into acceptable use within reasonable costs. In our view, this issue should be explored further. It may be possible to undertake partial demolition that would satisfy the public safety issue and allow time for alternative solutions to be investigated.

We would recommend that the feasibility of bringing the building back into use is explored in more detail. Normally, a listed building should be marketed at a cost that reflects its location and condition before demolition is further considered.

CONSERVATION OFFICER

- 6.2 Bearing in mind the condition that this building has been in for the last decade it is not surprising that the structural survey reveals that the building is in poor condition.

COMHAIRLE ARCHAEOLOGIST

- 6.3 Awaiting.

BUILDING STANDARDS

- 6.4 I have looked at this building and the wall structure is slowly deteriorating. It is getting to the stage that we will soon have to declare it as a dangerous building. The lime mortar has been washed out of the wall structure and much of the stonework has fallen from the walls. This has left a much thinner wall structure along the front and side elevation. One gable end has a distinctive bulge forming where the stonework has fallen out.

This application, by the owner, has come about as a result of my initial inspection of the property.

Should this demolition not be carried out as a result of this application the building standards section would need to carry out the work under dangerous building legislation. This would be essential due the close proximity of the public road, the access to the shore and the position of the nearby public waste skip. Any costs incurred by building standards would then be invoiced to the owner of the building.

A building warrant will also be required prior to carrying out this work

VIEWES OF APPLICANT

7.1 None.

DECISIONS AFFECTING THE SITE

8.1 None.

THE DEVELOPMENT PLAN

9.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 says, “Where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise.” Attention is therefore drawn initially to any relevant policies or other elements of the Development Plan. This is then followed by comment on any other material considerations before a conclusion is reached.

9.2 Western Isles Structure Plan

| PLAN REF | RELEVANT TERMS | IMPLICATIONS FOR THIS CASE |
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| DM4 | <p><i>The Comhairle will support proposals that bring contaminated, vacant or derelict land back into beneficial use, while taking account of ecological interests, which may have developed, on the site. The re-use of vacant and derelict properties is generally preferred to demolition and particular emphasis will be placed on proposals that return vacant listed buildings and other buildings of heritage or townscape value (including thatched buildings) to beneficial use where the character of the building can be retained.</i></p> <p><i>Local Plan allocations will be subject to a study of past contaminative uses to assess appropriate future uses, in line with the Comhairle’s Contaminated Land Inspection Strategy.</i></p> <p><i>The Local Plan will identify significant parcels of land or important buildings to which this policy applies.</i></p> | <p>It is considered that compliance with this policy will be difficult to achieve given the extent of dereliction. The decay of the inner wooden lintels has resulted in structural instability to the inner wall and bulging in the stonework.</p> |
| RM13 | <p><i>The Comhairle will seek to conserve the special architectural and historic interest of Listed Buildings and their settings. It will support sympathetic conversions to secure their future use and will only permit demolition in exceptional circumstances*.</i></p> <p><i>* The Comhairle has an approved Conservation Policy and Thatched Building Policy for assessing</i></p> | <p>It is argued by the applicant that the conversion of the property is not economically viable. This is a view shared by the Comhairle’s Building Standards Service.</p> |

9.3 Western Isles Local Plan

| PLAN REF | RELEVANT TERMS | IMPLICATIONS FOR THIS CASE |
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| | <p><i>For all development affecting listed buildings or their setting including development adjacent to a listed building</i></p> <p><i>Full drawings showing the existing building and proposed development will be required with all applications. Applications in outline will not be acceptable.</i></p> <p><i>For internal and external alterations, or additions to listed buildings</i></p> <p><i>The scale, form, siting and design of the development will be required to respect the listed building or setting.</i></p> <p><i>Traditional building materials should be appropriately utilised to ensure the qualities of the building are not compromised.</i></p> <p><i>In the case of listed buildings all aspects of the building are listed not just those specified in the listing description: applications will need to identify all changes and original features should be retained wherever possible.</i></p> <p>Demolition of listed buildings</p> <p><i>Demolition will only be permitted in exceptional circumstances and all the following criteria will be used to assess the case for demolition of a listed building.</i></p> <p><i>The developer can demonstrate that every effort has been made to find practical ways of keeping the building, including marketing and disposal. Applicants will be required to demonstrate that such action has been undertaken over a minimum period of 6 months.</i></p> <p><i>The developer has obtained a structural survey indicating that the building poses a health and safety danger and is incapable of being brought back into acceptable use within reasonable cost limits.</i></p> <p><i>The developer has exhausted all</i></p> | <p>The proposal is for Listed Building Consent for demolition because the building is considered to be a potential danger to the public.</p> <p>The proposal is for demolition and it is considered that the building is not capable of repair. At the time of listing in 1994 the building was near derelict and roofless and was thus considered only worthy of a Category C listing.</p> <p>The applicant has been asked to demonstrate that every effort has been made to keep the building but has responded by saying that the building is too dangerous to allow access to it.</p> <p>The developer has submitted a structural survey with the application. This report describes the condition of the building as having masonry walls in a very poor structural condition.</p> |

possible sources of grant aid for the restoration /re-use of the building.

In the event of any demolition consent, the following conditions will normally be imposed requiring that:

building demolition work cannot commence until planning consent for the redevelopment/re-use of the site It has been obtained and contracts have been let for the construction of the replacement building or acceptable after use of the site;

the developer notifies the Royal Commission on Ancient and Historical Monuments of the proposed demolition;

up to three months is allowed for access to record the listed building.

There are likely to be limited sources of grant aid for the renovation of this building. The Comhairle provides no grant aid for this type of work and Historic Scotland's grants are considered to be insufficient relative to the potential costs of renovation. The applicants have not pursued this course of action.

The developer has already notified RCAHM of the proposed demolition and has indicated that the building has been recorded.

OTHER PLANNING CONSIDERATIONS

Background

- 10.1 The deterioration in the structure of this building was brought to the attention of the Comhairle when concerns were expressed by the Community Council that the derelict condition of the building was presenting a danger to the public because of its proximity to the public highway and to the site used by the community skip. The building, which is on the Buildings at Risk Register, has been derelict for a number of years and it is acknowledged that at the time of listing the structure was roofless. The owners applied to the Comhairle to have the building demolished but were advised that as the building was listed any demolition works must be carried out in accordance with Historic Scotland's guidance "Managing Change in the Historic Environment". Applicants normally need to show that they have made all reasonable effort to retain the building by demonstrating that the significance of the building and its setting is fully understood, the condition of the building has been assessed by appropriate conservation professionals, repair is not economically viable, alternative sources of finance have been explored and the property has been marketed for a reasonable period at a price reflecting its condition to potential restoring purchasers. These policy aspirations are reflected in the Western Isles Local Plan which requires that in the event that demolition consent of a listed building is granted, the developer notifies the Royal Commission on Ancient and Historic Monuments of the proposed demolition to allow the building to be recorded. The applicants duly submitted an application for Listed Building Consent and notified the Royal Commission on Ancient and Historic Monuments who arranged to have the building recorded. The application has attracted four letters of representation and the matter is therefore presented to the Comhairle for a decision.

Historic Significance of Building

- 10.2 Several of the letters of representations reflect the view that this is a very important building both in terms of the stone and lime method of construction and as part of the historic environment record from a period of Western Isles history. According to the Scottish Civic Trust, the building is a very significant one in Rodel forming part of the group of buildings around the harbour built around 1780 during a period of relative prosperity for Harris when Rodel became the centre of an energetic fishing enterprise. Those making comments consider that “the fishing station or Factor’s House” is one of a few buildings from this period including the Rodel Hotel and St Clements Church which has survived and therefore should be consolidated to allow a restorer to be found. To this end it has been suggested that in accordance with both Historic Scotland and the Comhairle policy on demolition of listed buildings the property should be put on the market for a minimum period of six months.

Case for Demolition

- 10.3 While acknowledging the above, the applicants argue that in the case of applications for demolition of listed buildings, Historic Scotland will allow Planning Authorities to approve such applications provided the building is incapable of repair or that the repair of the building is not economically viable. The applicant stresses that neither restoration nor consolidation is a viable proposition and that this view is supported by a structural engineer’s report, which describes the condition of the building as having very dilapidated masonry walls, which are in very poor structural condition and a significant danger and safety hazard to the non-discerning passer by. This view is confirmed by the findings of the Comhairle’s Building Standards Service. During a recent site visit, further signs of deterioration of the structure were noted including a recently fallen stone lintel on the roadside elevation, a more pronounced bulge in the stonework, partial collapse of a single extension to the rear, the stonework on the remaining chimney in danger of collapse and unsupported pieces of stone balanced on the wall head next to the road verge. In view the deteriorating condition of the building and the potential for danger to public safety, the Head of Development Services considered it expedient to serve a Dangerous Buildings Notice under Sections 29 and 30 of the Building (Scotland) Act 2003. The Notice was served on 29 July 2010 and required that the building be demolished or partially demolished but only on the approval by Historic Scotland of Listed Building Consent for demolition.

Role of Historic Scotland

- 10.4 If the Local Authority decides to grant consent for the demolition of a listed building, the application must be referred to Historic Scotland before consent can be granted. Historic Scotland will consider the information submitted and, if satisfied that a clear case has been made which justifies the demolition of the building, the application will be returned to the Local Authority who will then issue the consent. However, if a clear case has not been made or the evidence submitted has not been sufficient a decision may be delayed while the required evidence is prepared and examined. Following this, if Historic Scotland considers that a case for demolition has not been made the application may be “called in” for Scottish Ministers’ determination. In these circumstances Scottish Ministers appoint an independent reporter to review the case and recommend what decision should be taken. According to Historic Scotland there are two underlying principles to any actions that might be taken. These include the retention of the listed building as far as possible or public safety. One does not necessarily take precedence over the other. However, Historic Scotland has informally indicated that in a case where it can be demonstrated that the retention of the building may cause risk to public safety they would not challenge the decision of the Local Authority provided the correct procedure has been followed. This procedure could be carried out retrospectively if necessary.

Scottish Historic Environment Policy

- 10.5 Section 3.50 of the Scottish Historic Environment policy states that in the case of applications for the demolition of listed buildings it is Scottish Minister's policy that no building should be demolished unless it can be clearly demonstrated that every effort has been made to retain it. Planning Authorities should therefore only approve such applications where they are satisfied that the building is not of special interest, the building is incapable of repair, the demolition of the building is essential to delivering significant benefits to economic growth or the wider community or the repair of the building is not economically viable and it has been marketed at a price reflecting its location and condition to potential restoring purchasers at a reasonable price.
- 10.6 In this case the historic significance of the building is not disputed. However, it is now considered that this building is beyond repair. There is no roof, floors or inner partitions to the building and the original timber lintels on the inner face of the wall have decayed leaving unsupported walls around the inner face of all doors and windows. Further signs of deterioration of the structure were noted recently including a fallen stone lintel on the roadside elevation, a more pronounced bulge in the stonework, partial collapse of a single extension to the rear, the stonework on the remaining chimney in danger of collapse and unsupported pieces of stone balanced on the wall head next to the road verge. It is therefore considered that the demolition of this building will deliver benefits to the wider community in terms of health and safety because the building is no longer capable of repair.

CONCLUSION

- 11.1 The historical significance of this building in terms of development of Rodel in the 18th century is not disputed. However this building, which is on the Buildings at Risk Register for Scotland, was known to be a roofless shell at the time it was listed in 1994 and the C listing reflects the condition of the building at that time. Recent deterioration in the condition of the building has made it dangerous and a threat to public safety, particularly in view of the location close to the verge of the A859 and the close proximity of the building to a site used for the community skip. Although the applicants have not fully complied with all the criteria of Comhairle policy and Scottish Historic Environment Policy on the demolition of listed buildings with regard to marketing, arguing that the building was too dangerous to sell it is considered that in the interests of public safety the building should be demolished. The applicants argue that to market the building for a period of over a minimum of six months to satisfy Development Plan policy would potentially compromise public safety. For that reason they have supported the application for demolition with a structural engineer's report which indicates that the building poses a health and safety danger. In view of the evidence presented by the report, supported by the Comhairle's Building Standards Service it is considered that public safety should take precedence over the retention of the listed building. It is therefore recommended that Historic Scotland be advised that the Comhairle is satisfied that the applicants have a clear case for demolition in the interests of public safety.

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| SCHEDULE OF PROPOSED CONDITIONS |
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Condition 1 **No part of the demolition approved by this consent shall proceed before the expiry of three months from the date of this consent or until the Royal Commission on Ancient Historical Monuments of Scotland has stated in writing that it has completed its record of the building or that it does not want to record it.**

Reason *In the interests of visual amenity and in order to prevent the premature demolition of the building and to accord with the requirements of section 7 of the Listed Buildings and Conservation Areas (Scotland) Act, 1997.*

Condition 2 **No part of the demolition approved by this consent shall proceed until details of the restoration site have been submitted to and approved in writing by the Comhairle as planning authority. The approved details shall then be implemented to the satisfaction of the Comhairle as planning authority within six months of the start of demolition works unless agreed otherwise in writing with the Comhairle before any demolition starts.**

Reason *In order to ensure the satisfactory treatment of the site following demolition, in the interests of the visual amenity of the area.*

