

EAST AYRSHIRE COUNCIL

NORTHERN AREA LOCAL PLANNING COMMITTEE : 26 OCTOBER 2001

**01/0240/FL : CHANGE OF USE AND REFURBISHMENT OF VACANT CASTLE TO FORM
OVERNIGHT ACCOMMODATION FOR USE IN CONJUNCTION WITH HOTEL**

ROWALLAN CASTLE, ROWALLAN ESTATE, KILMAURS

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 It is proposed to finish the programme of restoration and rehabilitation work which is substantially complete on site. A conservation plan is submitted for background information on the scope of that work. It is proposed to utilise the old castle as accommodation to complement the hotel complex based at the newer Rowallan House. The principal of that proposal was approved earlier this year under EAC Ref 98/0365/OL. A parallel Scheduled Monument Consent application (SMC) for the same proposal is with Historic Scotland for their consideration. It should be noted that planning consent is sought here for the change of use only, the details of physical changes to the building will be determined by Historic Scotland. However the application has been advertised as affecting the setting of a Listed Building.

Information submitted by the applicant confirms that the Old Castle will be used for sleeping and lounge accommodation for guests either on the basis of separate individual parties or groups. The applicant confirms that there will be no cooking or food preparation facilities in the castle. Staff will be available on site or through contact with the main hotel complex.

2. RECOMMENDATION

2.1 It is recommended that the planning application should be approved subject to the appropriate notification to the Scottish Ministers under the Town and Country Planning (Notification of Applications) (Scotland) Direction 1997 and subject to the conditions on the attached sheet.

3. SUMMARY OF ANALYSIS

3.1 As is indicated at paragraph 5 in the report, the application is considered to be in accordance with the development plan. Therefore, given the terms of Section 25 and Section 37 (2) of the Town and Country Planning (Scotland) Act 1997, the application should be approved unless material considerations indicate otherwise. As is indicated at paragraph 6 of the report there are material considerations relevant to this application, among these considerations is the current status of the building relative to the internal restoration and additional works, and the ability to confine the use proposed to the building itself and avoid disruption of the setting. It is considered that these aspects

are generally supportive of the application adding weight to the presumption in favour of the development plan.

3.2 Should the Committee be of a mind to approve the change of use, the application will require to be notified to the Scottish Ministers for determination under the Notification of Application Procedures 1997. The Committee's decision on this matter will be of material significance in the Inquiry on the Scheduled Monument Consent application.

Alan Neish
Head of Planning and Building Control

Note: This document combines key sections of the associated report for quick reference and should not in itself be considered as having been the basis for recommendation preparation or decision making by the Planning Authority.

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ROWALLAN CASTLE, ROWALLAN ESTATE, KILMAURS

Report by Head of Planning & Building Control

1. PURPOSE OF REPORT

1.1 The purpose of this report is to present for determination an application which is to be considered by the Local Planning Committee under the scheme of delegation because it has been the subject of objections.

2. APPLICATION DETAILS

2.1 **Site Description:** The site involved in this application is the 'Old' Rowallan Castle situated in the Rowallan Estate between Kilmaurs and Fenwick. The Castle, recorded as a Superior Scottish Mansion, is situated in its own grounds elements of which predate the newer castle and is accessed from the Kilmaurs to Fenwick Road from the estate's main entrance. The approach to the castle proper is via a packhorse bridge over the Carmel Water which is one of several watercourses which run through the estate.

The Castle has a courtyard plan with the buildings forming a U shaped grouping around the courtyard which is retained on the west elevation by a stone wall. Currently the south and east section of the building are intact having been rebuilt internally.

Pedestrian access to the castle proper is through an arched pend at courtyard level, which is reached by a set of steps from the outer courtyard area.

The castle is a Category A Listed Building and a Scheduled Monument.

The estate at Rowallan is partly covered by a Listed Wildlife Designation, and is recorded in the Inventory of Gardens and Designed Landscape in (Scotland).

Currently the building is supplied with the amenities of water and electricity, and toilet facilities are in situ. These are a part of works in progress managed by Historic Scotland under the Ancient Monuments and Archaeological Areas Act 1979 and the Deed of Guardianship entered into in 1950.

2.2 **Proposed Development:** It is proposed to finish the programme of restoration and rehabilitation work which is substantially complete on site. A conservation plan is submitted for background information on the scope of that work. It is proposed to utilise the old castle as accommodation to complement the hotel complex based at the newer Rowallan House. The principal of that proposal was approved earlier this year under EAC Ref 98/0365/OL. A parallel Scheduled Monument Consent application (SMC) for the same proposal is with Historic Scotland for their consideration. It should be noted that planning consent is sought here for the change of use only, the details of physical changes to the building will be determined by Historic Scotland. However the application has been advertised as affecting the setting of a Listed Building.

Information submitted by the applicant confirms that the Old Castle will be used for sleeping and lounge accommodation for guests either on the basis of separate individual parties or groups. The applicant confirms that there will be no cooking or food preparation facilities in the castle. Staff will be available on site or through contact with the main hotel complex.

3. CONSULTATIONS AND ISSUES RAISED

3.1 EAC Roads and Transport Division have advised that they have no objection to the proposed change of use as detailed provided that conditions pertaining to the previous application 98/0365/OL are fulfilled. The relevant conditions relate to the following matters.

1. The principal access to and egress from the application site shall be by way of a new junction formed with the B751 public road west of the Gatehouse. The sightline and forward visibility for that junction will be 2.3 metres by 160 metres. A road of 4.1 metres carriageway width will be provided. The junction radii will be a minimum of 9 metres. The road to be thus formed will continue into the site for at least 100 metres and will terminate with a roundabout from which private access to the

Gatehouse will join the access road as it continues generally northwestwards. The existing Gatehouse private access will only operate for incoming traffic.

Noted. The Roads Division have not confirmed a requirement for additional works but the issue of parking for the proposal requires a condition to secure amenity matters.

3.2 The Garden History Society have responded by making particular reference to the qualities of the immediate environs of the Old Castle, and proposals indicated in those areas, ie formal garden restored to agreed design.

The proposals identified in the block plan, drawing no: BP were indicative only and are not being assessed as part of this application. Indeed if the Committee were of a mind to approve the application a condition confirming the status of those areas can be attached.

3.3 The Society also advise that the gas and water supplies detailed may result in the disruption of archaeological remains.

The utilities as detailed were installed by the applicant after gaining SMC from Historic Scotland.

In light of the above the response from The Garden History Society has been considered to be an objection and has been acknowledged as such.

3.4 The Scottish Civic Trust has responded extensively on the proposed change of use of the castle, but have made great reference to the implications the proposal would have on the scheduled monument status of the castle, and have confirmed that they would not recommend the issuing of any change of use consent. In advising the above they have raised four specific areas of concern as follows:

1. The principle of restoration

The Trust would not necessarily object to the principle of restoration. We are not convinced that the currently proposed restoration can be in line with current conservation philosophy and according to Historic Scotland's own guidelines.

The principle of restoration is not being assessed in this application for planning permission, although restoration has been underway for a considerable period now under the auspices of Historic Scotland. The submitted conservation plan, on the applicants advice, accords with Historic Scotland's intentions. In this regard Historic Scotland have not disputed this or raised issue with those details. The merits of the work carried out to date are not at issue in this report.

2. The nature of the current application and the 'cost' of change of use

The Trust is concerned that the drawings submitted do not demonstrate to a satisfactory degree the level of intervention required to provide the services proposed for this type of conversion. We are equally frustrated by the failure to make a distinction between survey plans, proposed plans and services plans.

There are a number of anomalies between what is ostensibly proposed in the plans and what is actually specified in detail in the conservation plan with regard to alterations of fabric externally and internally and the treatment and finishing of surfaces.

We therefore consider that the physical costs of the proposed interventions to the fabric (to enable private guardianship) would be too high and would essentially be counterproductive. In this respect we believe that the current proposals would compromise the very specific and special architectural character and integrity of this building.

Noted. Again the Trust refer to matters which will be appropriately assessed under the Schedule Monument Consent which is currently under consideration by the Scottish Executive.

3. The implications of granting SMC for occupation.

The Trust is concerned that there may be some negative implications regarding occupation of the building. We are aware that there is some debate regarding the conditions under which a Scheduled Ancient Monument is required to be de-scheduled. As far as we understand it, under some circumstances relating to the occupation of a Scheduled Ancient Monument as a dwelling it must be struck off the list. The Ancient Monuments and Archaeological Areas Act 1979 chapter 46 Part I (4) states "The power of the Secretary of State under subsection (3) above to include any monument in the Schedule does not apply to any structure which is occupied as a dwellinghouse by any other person other than a person employed as the caretaker thereof or his family" in which case "(5) The Secretary of State may – (a) exclude the monument from the Schedule". We understand that the debate surrounding the issue is based on what the interpretation of what is meant by a **dwelling** or **an occupier** might be. If in this case the interpretation of overnight accommodation did result in de-scheduling, we are deeply concerned about the associated implications that would ensue. For example the Building and Fire Regulations from which a Scheduled Ancient Monument is exempt may then become applicable. In such circumstances, no matter how sensitively an application for the initial conversion had been instituted, it is possible that those steps may be in vain due to the requirements of building control to ensure quick and safe fire exit etc.

The Trust would therefore urge that the interpretation of the legalities surrounding this issue be fully explored and clarified prior to any decision being taken in respect of granting Schedule Monument Consent.

Noted. Once more as with the other listed considerations the Trust have raised legitimate concerns in the assessment of the Schedule Monuments Consent, but not in themselves valid in assessing the planning application. This application simply allows consideration of whether to not the change of use can be supported.

4. The relevance of the reasoned justification

In the light of these observations the Trust believes that the reasoned justification submitted which claims "The continuing use of the castle for overnight accommodation can be viewed as subsidising the level of curation necessary to open the castle successfully to the public" to be flawed and unnecessary as we understand that Historic Scotland are anxious to provide curatorial presence once

public access in general has been resolved. In this respect we consider the reasoned justification to be unfounded as the potential cost to the fabric and authenticity of the building to facilitate private 'guardianship' of the building would be too high and too instable. The Trust therefore believes that the current guardianship is by far a safer vehicle to secure authenticity and continued maintenance of this fine example of our built heritage.

We also wish to draw attention to issues regarding current access to the monument. On the day of our visit to the site, the route was barred and on a more recent occasion, whilst passing by, the doors of the gatehouse were closed. Access by the public to the site, as we understand it, should be possible at all times. It is therefore a concern to the Trust that access may currently be restricted with a view to the guardianship agreement and that therefore the guardianship requirements may be being broken. We hope that this is merely a temporary measures against foot and mouth and not an attempt to restrict potential visitors to the Old Castle site.

Finally we would draw attention to the relationship between granting Planning Permission and the principle of granting Scheduled Monument Consent. We would strongly advise that Planning Permission should not be considered in isolation and that it should not be granted unless SMC has been fully assessed and agreed.

Noted; again the above relates heavily to matters to be considered elsewhere. Whilst it is clear that the Trust are not favourably disposed to the issuing of the change of use consent as applied for, the detail of the objection does not raise any specific grounds directly relating to the use. On the contrary the objection raises matters wholly relevant to the SMC application and in part relates to a programme of work, already underway and sanctioned/controlled by Historic Scotland.

3.5 West of Scotland Archaeology Service have responded extensively on a number of points as follows:

The description of the castle as vacant is inaccurate as the building is in care and cannot be considered as vacant. It is open to the public.

Noted; the use of the term vacant is considered to be an appropriate description of the property.

3.6 As well as being a property in the care of Scottish Ministers, the site is also a scheduled ancient monument. The policy in National Planning Policy Guideline (NPPG 5) is clear – "developments, which would have an adverse effect on scheduled monuments or the integrity of their settings, should not be permitted unless there are exceptional circumstances".

Although the applicant has attempted to minimise the effects on the fabric of the castle from his proposals, there will still be necessary changes in order to achieve the proposed development. I consider this to be an adverse effect on a scheduled ancient monument. I also know of no exceptional circumstances which would allow these to be permitted, as the property is in the care of Scottish Ministers and is therefore not at risk.

Noted; in respect of the above the physical works have been initiated and indeed are being currently managed by Historic Scotland. The Conservation Plan submitted is an indication that the works already committed to would be completed by the applicant. These works do not require the benefit of planning permission. The question of use however does constitute development and therefore requires planning permission.

Whilst it is accepted that the proposal is not essential to the long term preservation of the building, it is considered that the use as outlined would not have an adverse affect on the integrity of the monument or its setting. It is considered that the use of the castle as incidental specialist/themed accommodation, to complement the larger hotel complex, could potentially have no more an impact on the castle than the detailed physical works. The extent to which works, consequent upon any change of use consent, are acceptable can be determined under the Scheduled Monuments Consent.

The Service have additionally commented on a number of detailed matters connected to the physical works; installation of service, drainage arrangements etc, citing them as potentially damaging to the existing fabric of the building. These works do not require the benefit of planning permission and significant elements of them are currently in place.

3.7 Historic Scotland have been consulted on this application for planning permission and have confirmed in the first paragraph of their response that they have issued a provisional decision letter on the parallel application for Scheduled Monument Consent. That provisional letter indicated that the advice from Historic Scotland to the Scottish Ministers is that SMC should be refused. Accordingly their response is considered to be an objection.

3.8 Historic Scotland continue with a statement confirming their current circumstances in respect of the 'Old Castle' and the relevant Deed of Guardianship agreed in 1950. They acknowledge that the remit of East Ayrshire Council in determining the planning application is sufficiently different from their own assessment responsibilities of the SMC but refer extensively to National Planning Guidance NPPG 5 in particular which confirms the significance of SMC and what weight should be attached to assessing any development proposals.

"17. Where development is proposed, planning authorities, using the categories outlined in this paragraph as a guide, should weigh the relative importance of the archaeological features in question and their potential use of amenity, tourism and education purposes against other factors, including the benefits of the proposed development:-

Scheduled ancient monuments are of national importance and it is particularly important that they are preserved in situ and within an appropriate setting. Developments, which would have an adverse effect on scheduled monuments or the integrity of their settings, should not be permitted unless there are exceptional circumstances".

Noted. The effect the proposal would have on the setting of the Old Castle is one that this office has deliberated upon and is satisfied that the use could be implemented with no significant detriment to these aspects and this can be additionally secured by conditions.

3.9 Historic Scotland confirm that in their view the development proposal is fundamentally about the appropriate use and development of the SM. That is agreed however significant work has been undertaken and is still to be implemented as detailed in the Conservation Plan with a view to the building being opened to visiting members of the public. Under the Deed of Guardianship this can extend to being open all year. The scope of works extend to toilet accommodation, heating, either a "wet or dry" system, and the provision of hot and cold water supply.

Given the above it is considered that the use of the building as proposed would not have a significant additional impact on the internal qualities of the castle. It is

understood that the Deed of Guardianship may have to be rescinded and the opportunity to open the castle to the public may be lost. Accordingly the applicant being aware of this aspect has confirmed that he would be willing to enter into an Agreement if necessary under Section 75 of the Town and Country Planning Act 1997 to the effect that the castle would be opened to the public. Whilst this is noted such an Agreement does not directly bear on the merits of the change of use proposal.

3.10 Historic Scotland continue by referring to the sections of the Development Plan and new guidance published by their office in particular "The Conservation of Architectural Ancient Monuments in Scotland". That document should be applied in this case in their view and the proposal does not accord with the relevant criteria.

Noted. However it should be borne in mind that there is a programme of restoration currently underway at the 'Old Castle' which introduces modern facilities including power supply and toilet accommodation. Such installations are in themselves acknowledged by this guidance as being 'problematic' and significant steps relative to the buildings character. The commitment to this programme of work in this case is considered to be an indication of Historic Scotland's regard of the building status and a further indication that a reuse of the building which is not specifically precluded by this guidance would be considered. Accordingly it is considered that the use, particularly when viewed in light of the internal works, can be supported as having no significant detrimental impact on the character of the building.

The guidance continues by confirming that restoration is usually expected to take a building back to its last known state, before the building fell out of use.

Noted. It is considered that the degree of work currently underway goes beyond that requirement and that the proposal does not add undue detriment in that context to the character of the building. Additionally and as stated above a point of significant detail is that under the relevant legislation a SAM cannot be occupied, whether or not the degree of potential occupation reflected in the change of use is deemed significant enough to warrant a reassessment of the scheduling is for another forum to assess.

3.11 Scottish Environmental Protection Agency have advised that they have no objection in principle to the proposal but do advise that the septic tank arrangements will require upgrading.

Noted. It is anticipated that this matter can be secured by means of a condition.

3.12 West of Scotland Water have confirmed that contact should be made with their office regarding compliance with current water byelaws.

Noted.

3.13 The Scottish Wildlife Trust have confirmed that they have no objection to the planning application.

Noted.

3.14 Scottish Natural Heritage has advised that there is evidence that the castle has been used as a roost by bats. Accordingly they have recommended that a survey should be undertaken to establish the position in site to determine how the matter may be best managed.

Noted. This matter can be addressed by means of a condition.

3.15 The application site includes an area with a number of sensitive locations. The development of a car park within the site could reduce the value of the site.

Noted. This particular aspect is anticipated and a conditional requirement can be attached precluding such an option.

3.16 Stewarton and District Community Council have not responded at the time of writing this report.

Noted.

3.17 The Architectural Heritage Society have advised of their comments on the application but concentrate on matters not being assessed here.

Old Rowallan Castle is not a building at risk which requires a new use to give it a future. It is not at risk of collapse thus justifying 'privatisation'. We note that the section on the planning application form where the intending developer specifies his interest as owner/lessee is blank. Is the applicant the owner, or is the building held in trust for the nation?

Noted. It is acknowledged that the proposed use is not considered necessary to save the building. However, that is not the issue for this application. The applicants are the owners of the building however the Deed of Guardianship affords the nation significant intervention into the preservation and maintenance of the property.

This Castle has had very significant sums of public money spent on it in the last thirty years, during which time it has been stabilised, conserved and to an extent restored. There is no indication in the current application as to how much public access will be retained if this building is to be converted to a hotel annexe. An exhibition area is shown in one room in the basement. This is at odds with plans in the 1970's to open the entire building to the public who paid for its future to be assured.

Noted. The issue of public access to the Castle is not relevant in the consideration of the planning application. If the terms of Deed of Guardianship preclude activities which might restrict public access then it is by means of the Deed that public access should be secured.

The Society believe old Rowallan Castle should simply be left unfurnished, with the only concession to modernity being to install a public lavatory in the basement and a small unmanned display area, and that public access should be made freely available NOW.

The Society examined the plans which do show minimal interference with existing walls etc. Building Regulations may also require further interior alterations e.g. we note reference to timber stair treads and hand rails. Sometimes such work can be effected with minimal damage. However, we

understand there is already concern in some quarters about the standard of work recently carried out at Rowallan.

Noted, these issues relate heavily to the application for SMC which is being assessed separately.

4. REPRESENTATIONS

4.1 As stated in paragraph 3, the following four consultees have objected to the proposal on various grounds.

The Scottish Civic Trust, Historic Scotland, The Garden Heritage Society and The Architectural Heritage Society of Scotland.

In addition an objection has been received from the Ayrshire Archaeological and Natural History Society.

4.2 Ayrshire Archaeological and Natural History Society have objected to the proposed application. However in their letter they concentrate on the merits of the physical works on what in their view “is a valuable, irreplaceable historic monument, within a site which is archeologically and historically inviolate and represents one of the irreplaceable treasures of Ayrshire and Scotland”. They consider that the integrity of the castle would be “shattered” by the proposal’s pursuit of commercial gain.

This response is considered to relate in part to the merits of the works carried out and still programmed for the castle and not to the merits of the change of use application. However, their concern about the integrity of the building is noted.

5. ASSESSMENT AGAINST DEVELOPMENT PLAN

5.1 Sections 25 and 37 (2) of the Town and Country Planning (Scotland) Act 1997 require that planning permissions be determined in accordance with the development plan unless material considerations indicate otherwise. For the purposes of this application, the development plan comprises the Approved Ayrshire Joint Structure Plan and Adopted Stewarton Local Plan (1986). The Adopted Local Plan was prepared within the context of the then emerging Strathclyde Structure Plan.

5.2 Notwithstanding the age of the Adopted Plan, the proposal would fall to be assessed against the relevant policies within it as follows:

Adopted Stewarton Local Plan

Policy 4.7.13

There shall be a presumption against the demolition or part demolition of any Listed Building in the Local Plan Area, and against any alteration to a Listed Building in the Local Plan Area which, in the opinion of the District Planning Authority, is detrimental of the character of that Listed Building.

The reason for this policy was to protect those buildings in the Local Plan Area which contribute significantly to the local architectural character, and have not yet been listed.

In terms of the above policy it should be noted that the application is for the change of use of a Category A Listed Building which is Scheduled Monument. Accordingly there is no application for Listed Building Consent to be considered; the internal works are being assessed separately by Historic Scotland under an SMC application.

It is considered that this proposed change of use is not contrary to the terms of this policy.

Policy 4.7.15

There shall be a presumption against any development affecting the site of a Scheduled Monument.

Noted. As stated above it is considered that the use could be accommodated with no conflict with this policy and conditions could be attached to any grant of permission if the Committee are of a mind to approve the application confirming that the change of use applies to only the part of the building undergoing restoration.

Policy 5.3.9

Commercial or industrial development shall not be allowed in the countryside, outside the urban envelope or existing settlements as shown on the proposals maps, except for certain criteria which included the use of existing buildings in the countryside as hotels, guest-houses, holiday flats or institutional uses.

Accordingly the proposed change of use accords with the terms of this policy.

Policy 5.3.15

The Council shall presume against any development on the Listed Wildlife Sites as shown on the proposals map.

The Castle is within the area of an extensive LWS. It is considered however, given the circumstance of the building and the use involved, that the proposal does not conflict with the aims of the policy which is to protect recognised wildlife habitats. Indeed the response from the Scottish Wildlife Trust endorses this view.

The Approved Ayrshire Joint Structure Plan

Policy W5

The three Ayrshire Councils shall encourage development to increase the range and improve the quality of facilities, attractions and experiences for tourists and day visitors subject to other relevant policies in the Structure Plan and Local Plans.

It is considered that the proposed change of use accords with the broad aims of this policy bringing specialist accommodation into the tourism sector that would potentially appeal to a national and international market.

Under the built environment paragraph of the environment section policy E20 confirms the following:

Policy E 20

Development proposals considered to have an adverse effect on the following heritage resources shall not conform to the structure plan.

- A Listed buildings of architectural and historic interest;
- B Designated conservation areas;
- C Historic gardens and designed landscapes;
- D Archaeological locations.

Items A, C and D of this policy are considered only indirectly applicable to the proposed change of use. It is considered that the use of the castle as described could be accommodated with no significant detrimental impact on the relevant criteria.

5.3 Historic Scotland in their response cite that the proposal does not accord with additional strategic Policy ADS 7 and Guideline G2 which seek respectively to promote a sustainable approach to considering development proposals, and actively improve the urban and rural environment of Ayrshire.

The application has been assessed against the terms of these items in particular the listed criteria of Guideline G2 as follows:-

Guideline G2

The three Ayrshire Councils shall actively seek to improve the urban and rural environment of Ayrshire, and, subject to other policies in the Structure Plan, shall not be supportive of development proposals which have significant adverse effects by means of:

- A unacceptable visual damage or intrusion;
- B unacceptable pollution of air, water or land, or nuisance by way of smell, noise and light;
- C unacceptable danger by means of flooding or erosion;
- D prejudicing the use and enjoyment of natural environment and built heritage locations;
- E the loss of prime quality, or locally important good quality, agricultural land; and
- F unacceptable damage to existing species and habitats.

In respect of the relevant criteria it is considered that the proposal raises no significant issue in items A-C and E and F. Item D however is more valid in that the stance adopted by certain consultees is that the quality of the building and its level of accessibility to the public will be compromised. As described above it is considered that the use can be introduced with only limited impact on the quality of the building given the extent of the other works already sanctioned. It is considered that the Deed of Guardianship offers the means to regulate public access.

6. ASSESSMENT AGAINST OTHER MATERIAL CONSIDERATIONS

6.1 The other principal material considerations relevant to the determination of the application are the East Ayrshire Local Plan Finalised Version with Modifications (EALP), Government Guidance, consultations and impact on the amenity/quality of the building.

6.2 The Adopted Local Plan is considerably out of date and therefore it is considered appropriate that greater weight should be attached to more recent expressions of policy. The Council has agreed that the EALP should be considered a prime material consideration.

The relevant policy considerations of that plan are as follows:

Policy TLR 3

There will be a presumption in favour of tourist related development including the development of camping and caravan sites. Wherever possible, encouragement will be given to the use of existing buildings in preference to the construction of new build facilities. Proposals will require to meet all of the following criteria:

- (i) the proposed use and any associated structure is not visually or environmentally intrusive, is of a nature and scale compatible with surrounding land uses and is not detrimental to the character and amenity of the area within which it is proposed;
- (ii) there is no adverse impact on the natural environment and in particular on recognised natural or built heritage resources requiring conservation;
- (iii) the proposal can be fully justified in terms of infrastructure, provision of services, access and car parking provision; and
- (iv) the proposal complies with the provision of Policy TLR 4 below.

Reason for Policy TLR 3

To improve general provision for tourism related development within the area.

The proposal is considered to be in accordance with the criteria listed. Item (ii) requires noting as it raises the particular issue of impact on built heritage resources. However as stated previously that impact is being assessed in detail through the SMC process. This office is satisfied that the change of use could be implemented with no detrimental impact on those resources.

Policy TLR 4

All new tourist accommodation proposals will be directed to existing settlements, although new hotel and self catering accommodation may be considered acceptable in a rural location where there is a clearly demonstrated, site specific locational need and where the proposal complies with the provisions of Policy TLR 3 above. The provision of new bed and breakfast or guest house accommodation will be supported where the proposal relates to an existing property and where various criteria can be met.

In terms of the above it is considered that with the issuing of the earlier outline consent there is a specific locational basis for agreeing the proposal. Accordingly if the Committee is of a mind to approve the application, a condition ensuring that the hotel

use is not commenced at this application site until the larger parent facility is in operation should be attached.

The Environment Policy – ENV 1-5 all seek to preserve the built, and archaeological heritage and historic landscapes within East Ayrshire.

As stated above it is considered that the proposed change of use could be accommodated with no significant detrimental impact on heritage resources. There are no physical works within the localised confines of the site, therefore any concern regarding external damage to the designed landscape or archaeological interest are unfounded. The programme of internal work will be assessed by Historic Scotland.

6.3 NPPG 5 Archaeology and Planning confirms under paragraph 25 that “The preservation of ancient monuments and their setting is a material consideration in determining planning applications”.

It is considered on the basis of the information submitted that the setting in particular of the Scheduled Monument will not be significantly affected by the proposed change of use. Notwithstanding the annotation on the submitted block plan, no external works are part of the planning application, either to the building courtyard or the designed landscape. If the Committee are of a mind to approve the application, a condition would be attached to secure that any planning consent was only for the change of use of the building.

7. FINANCIAL AND LEGAL IMPLICATIONS

7.1 There are no financial or legal implications for the Council in determining this application.

8. CONCLUSIONS

8.1 As is indicated at paragraph 5 in the report, the application is considered to be in accordance with the development plan. Therefore, given the terms of Section 25 and Section 37 (2) of the Town and Country Planning (Scotland) Act 1997, the application should be approved unless material considerations indicate otherwise. As is indicated at paragraph 6 of the report there are material considerations relevant to this application, among these considerations is the current status of the building relative to the internal restoration and additional works, and the ability to confine the use proposed to the building itself and avoid disruption of the setting. It is considered that these aspects are generally supportive of the application adding weight to the presumption in favour of the development plan.

8.2 Should the Committee be of a mind to approve the change of use, the application will require to be notified to the Scottish Ministers for determination under the Notification of Application Procedures 1997. The Committee’s decision on this matter will be of material significance in the Inquiry on the Scheduled Monument Consent application.

9. RECOMMENDATION

9.1 **It is recommended that the planning application should be approved subject to the appropriate notification to the Scottish Ministers under the Town and Country Planning**

(Notification of Applications) (Scotland) Direction 1997 and subject to the conditions on the attached sheet.

Alan Neish
Head of Planning & Building Control

17 October 2001
(IW/FD/MMM)

FV/DVM

LIST OF BACKGROUND PAPERS

1. Application form/plans
2. Statutory Notice/Certificates
3. Consultations
4. Correspondence from applicants
5. Adopted Stewarton Local Plan 1986
6. Approved Ayrshire Joint Structure Plan 1999
7. East Ayrshire Local Plan Finalised Version with Modifications
8. NPPG 5 Archaeology and Planning
9. PAN 42 Archaeology
10. The Conservation of Architectural Ancient Monument in Scotland.
11. Ancient Monuments and Archaeological Areas Act 1979

Anyone wishing to inspect the above papers please contact Ian Walker on 01563 576769.

Implementation Officer: Dave Morris

TP2401/0240/FL/IW/FD/5

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

01/0240/FL

Site of Proposal:	Rowallan Castle Rowallan Estate KILMARNOCK
Nature of Proposal:	Proposed Change of Use & Refurbishment of Existing Vacant Castle to Form Overnight Accommodation for Use in Conjunction with Hotel
Name & Address of Applicant:	Duffield Morgan Ltd Rowallan Castle Rowallan Estate KILMAURS Kilmarnock KA3 2LP
Name & Address of Agent:	

DPOs Reference: IW/FD

The above FULL application should be approved subject to the following conditions:-

1. The change of use hereby granted relates solely to the buildings outlined in blue on the approved A3 block plan drawing no BP.

REASON In the interest of visual amenity and preserving the setting of the Scheduled Ancient Monuments and Category A Listed Building.

2. The change of use as approved shall not be commenced until hotel operations have commenced from the larger hotel (Rowallan House) as approved in principle by EAC 98/0365/OL.

REASON In the interest of visual amenity and providing the character and setting of Scheduled Ancient Monuments and Category A Listed Building.

3. The principal access to and egress from the application site shall be by way of a new junction formed with the B751 public road west of the Gatehouse. The sightline and forward visibility for that junction shall be 2.3 m by 160 m with a junction radii of a minimum 9m. The access road so formed will be 4.1 m wide and shall continue for at least 100 m and will terminate in a roundabout between the gatehouse and the application site.

REASON In the interests of road safety.

4. Prior to the commencement of use of the building, details of parking provisions for the use of the castle shall be submitted to and approved by the Planning Authority. Said details shall not impinge on the area within the application site.

REASON In the interests of road safety, visual amenity.

5. Before the commencement of use of the building details of the provisions made for the roosting of bats, together with details of the works, shall be submitted to and approved by the Planning Authority.

REASON In the interests of not disturbing or deterring the roosting of bats, being a protected species under the Wildlife and Countryside Act.

6. Prior to the commencement of use of the building as overnight accommodation, further details of the means of drainage and sewage disposal shall be submitted to, and approved by, the Planning Authority.

REASON To prevent contamination of watercourses.

Note to Applicant

The drainage arrangements will require to be upgraded. It is suggested that consideration is given to combining this foul sewerage flow with that from the development approved further to 98/0365/OL as this would result in there being only one discharge to the Carmel Water. SEPA would wish to seek assurances on the ability of the sewerage treatment to deal with a flow of macerated sewerage.

AGENDA