

EAST AYRSHIRE COUNCIL

NORTHERN AREA LOCAL PLANNING COMMITTEE: 4 APRIL 2003

**02/0171/FL: PROPOSED RECONSTRUCTION OF BRIDGE AT DUNLOP HOUSE,
DUNLOP, BY MCTAGGART CONSTRUCTION**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Planning Permission is now proposed to build a completely new bridge to match the design of the original bridge. However, the proposed finishing material is not natural stone but a substitute stone product coloured and mixed to match the stone of the original bridge. The plans attempt to detail a faithful representation of the original bridge. The applicants did not respond to the Appeal decision and have been requested to clarify the circumstances of the application in respect of that decision. To date they have responded by confirming that the material left on site could not be reused impressing the benefits to the setting of the house and the local community of a new complete bridge built in a sympathetic and consistent material. To date two different samples of a substitute stone material have been submitted in support of this application.

2. RECOMMENDATION

2.1 **It is recommended that the application be refused for the reasons indicated on the attached sheet.**

3. CONCLUSIONS

3.1 As is indicated in Section 5 of the report, the application is considered to be contrary to the Development Plan. Therefore given the terms of Sections 25 and Section 37(2) of the Town and Country Planning (Scotland) Act 1997 the application should be refused unless material considerations indicate otherwise. As indicated in Section 6 of the report there are material considerations relevant to this application. It is considered that these, add weight to the presumption in favour of the development plan and in turn would support the refusal of this application.

CONTRARY DECISION NOTE

Should the Committee agree that the application be approved contrary to the recommendation of the Head of Planning and Building Control, the application will require to be referred to the Development Services Committee because it would constitute a significant breach of Council policy.

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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Report by Head of Planning and Building Control

1. PURPOSE OF REPORT

1.1 The purpose of this report is to present for determination the above application which is required to be determined by the Local Planning Committee under the scheme of delegation because it is subject to objections and is recommended for refusal.

2. APPLICATION DETAILS

2.1 **Site Description:** Dunlop House is situated in a portion of its original grounds approximately 1 mile to the east of Dunlop village. The historic estate attached to Dunlop House enjoyed the benefit of a stone bridge across the Clerkland Burn which runs to the south of the main house. The bridge was listed as a result of being within the curtilage of the Category A listed Dunlop House. The stone bridge had fallen into a state of disrepair and had in the past been worked on using reinforced concrete and other untraditional materials. In Autumn 2001, as a consequence of unrelated work to clear flood debris from the underside of the bridge, the bridge partially collapsed and was subsequently removed by the applicant. Very limited remains of the stone are still on site and it is estimated that there is only approximately 1sq m of good sound material. Following Listed Building Enforcement Action in respect of the unauthorised demolition of the bridge which culminated in an unsuccessful Appeal by the applicants, the applicants were required to:

(1) Provide clear working drawings of the reconstructed bridge and submit these to the Planning Authority for approval. The drawings should show the reconstructed bridge as near as possible in the form it was in prior to its demolition, although the reconstructed bridge should be stable and in no danger of collapse; and

(2) Reconstruct the bridge in accordance with the approved plans using the stone remaining on site and importing additional stone if required. The imported stone should match the original to the satisfaction of the Planning Authority.

2.2 **Proposed Development:** Planning Permission is now proposed to build a completely new bridge to match the design of the original bridge. However, the proposed finishing material is not natural stone but a substitute stone product coloured and mixed to match the stone of the original bridge. The plans attempt to detail a faithful representation of the original bridge. The applicants did not respond to the Appeal decision and have been requested to clarify the circumstances of the

application in respect of that decision. To date they have responded by confirming that the material left on site could not be reused impressing the benefits to the setting of the house and the local community of a new complete bridge built in a sympathetic and consistent material. To date two different samples of a substitute stone material have been submitted in support of this application.

3. CONSULTATIONS AND ISSUES RAISED

3.1 Dunlop and Lugton Community Council have, referring to the Reporters decision, confirmed that the new bridge should be built using the same grade of materials used on the original. Additionally the Community Council raise the issue of the delay in having a bridge reinstated since the Reporters decision.

Noted. The applicants are aware of the terms of the appeal decision but have elected to make the application as submitted utilising a replica stone product. The issue of the delay is noted, this Division being extremely conscious of the circumstances on site. In proposing to construct a new bridge, the applicants chose in their submission, not to ignore the Reporters decision but to build a bridge that offers a better solution in their view than that envisaged by the Reporter. As in all enforcement matters this Division has used its discretion in considering the application. The initial enforcement notice was served at the discretion of the Head of Planning and Building Control and similarly it is discretionary to utilise the outcome of that notice, and consequent appeal, in the way best likely to benefit the amenity and character of the area. The Division has been endeavouring to improve the bridge proposal by negotiating on matters such as the finishing materials. The Division has also been aware of the opportunity presented to secure an entirely complete and new structure. These negotiations have not concluded in the anticipated improvements; regarding use of existing materials or agreement to use appropriate stone in constructing a complete new bridge.

3.2 The Architectural Heritage Society of Scotland has also referred to the Appeal decision in their response advising that the proposal to construct the bridge in any substitute stone material is unacceptable.

The Society's position on this matter is acknowledged as is the Reporter's findings in this case.

3.3 The Society also commented on inappropriate elements in the bridge design as follows:

- Incorrect cut detailing of the external finishing.
- No camber on the bridge.
- The use of certain modern additions, such as steel reinforced concrete.

It was anticipated that should agreement on the external finishing be reached then these specific matters could be secured by means of conditions. However, it has not been possible to secure agreement with regard to materials.

3.4 The Scottish Civic Trust have commented in similar terms to the above consultees. They confirm that cast stone products can never effectively replicate the textural and durability properties of natural stone. Accordingly, and in particular given the bridge's context within the curtilage of a Category A Listed Building, the substitute stone material proposed should not be supported and the application should be refused.

Noted. The Division acknowledge the importance of the bridge and of the use of suitable materials and has been seeking to secure an appropriate finish. The applicants have not altered their position in terms of finishing material and the current proposals are unacceptable.

3.5 Historic Scotland have responded confirming that the use of material other than natural stone should not be permitted as it is contrary to the requirements of the Enforcement Notice and the related Appeal decision.

Noted. It is agreed that any new bridge should be constructed of a high quality and sympathetic material in line with the Reporters decision.

However, the Reporters decision on the Enforcement Notice Appeal could only seek the replacement of the bridge to the semi-ruinous condition it was in when demolished. The applicants propose a complete new bridge which requires planning permission, the consideration of which has concentrated heavily on the particular issue of external finishing material. As stated above two samples of material have been submitted, neither of which are considered suitable, given the proposal is to replace a Category A listed bridge.

3.6 Historic Scotland concentrate heavily on the merits of the Reporter's decision and their interpretation of the intentions behind that decision. They state that it is important that if possible salvageable 'historic fabric' should be incorporated in the replacement bridge and the Reporters decision reflects this. They refute the lack of usable historic fabric as an excuse for approving the use of a reconstituted stone product, citing the replacement of degraded stonework with new stone as an accepted best practice in the repair and maintenance of historic buildings.

Noted. In electing to consider the merits of the application for a complete new bridge this Division has sought a finish of material commensurate with the status of the lost bridge and reminded the applicants of this issue in correspondence on the finishing material. The applicants continue to maintain that the use of precast stone is appropriate in this context. Submissions from them to date have not persuaded the Division that they have identified a suitably high quality material.

4. REPRESENTATIONS

4.1 In addition to the consultation responses listed above in Section 3, representations have also been received from two other individuals who live within the former estate. The grounds of objection are as follows:

4.2 The use of a sympathetic stone product is contrary to the terms of the Reporters decision and such a proposal should not be encouraged or considered.

Noted. However, the Division has considered it appropriate to offer the applicant the opportunity of trawling the market with a view to identifying if possible whether there is available a product whose characteristics very closely reflect that of natural stone. The applicant has not been able to identify such a product and consequently it is not appropriate to recommend favourably on the proposal in the absence of such details/sample.

4.3 Other issues have also been raised which are not valid planning considerations but relate primarily to the timescale of the entire matter to date.

Noted. (See above para 3.1).

4.4 As stated above in para 2.2, the applicants have submitted additional information in support of the application to confirm the rationale behind the submission. This information relies heavily on the benefit of a new bridge being built rather than a rebuilt replica of a semi-ruinous bridge which, on strict interpretation, the Appeal decision seeks. The Appeal decision is acknowledged, as is the fact that there is no categoric consensus on the exact degree of completeness of the bridge at the time of its demolition. The Reporter in his Appeal decision does acknowledge these aspects but his findings are unambiguous in that he requires a replacement to be built in natural stone as a reflection of the status of the original bridge being contemporary with the main house, a Category "A" Listed building.

5. ASSESSMENT AGAINST DEVELOPMENT PLAN

5.1 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that planning applications 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 the Adopted Stewarton Local Plan 1987. The Adopted Plan was prepared within the context of the then emerging Strathclyde Structure Plan.

5.2 Policy E20 of the Joint Ayrshire Structure Plan confirms that Proposals considered to have an adverse effect on heritage resources including Listed Buildings will not conform to the Plan.

It is considered that the application would, by reason of the unsuitability of the proposed finishing material, be contrary to the terms of this policy.

5.3 Notwithstanding the age of the Adopted Plan it is considered appropriate to assess the proposal against the following policy:

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 to the character of that Listed Building.

Reason To protect those buildings in the Local Plan Area which contribute significantly to the local architectural character.

It was in light of this policy that Enforcement Action was initiated in respect of the works which resulted in the loss of the original bridge. The loss of the Listed bridge was in itself in conflict with this policy and is considered to have a detrimental impact on the setting of the main house. It is equally considered that the proposal to construct a bridge in an unsuitable reconstituted stone would be contrary to the spirit of this policy and detrimental to the setting of the Category A Listed Building.

6. ASSESSMENT AGAINST OTHER MATERIAL CONSIDERATIONS

6.1 The other material considerations relevant to the determination of this application are the East Ayrshire Local Plan (Finalised Version of 1999), consultation responses, representations, the site history and Government Guidance.

East Ayrshire Local Plan

6.2 The Adopted Plan is considerably out of date and therefore it is considered appropriate that greater weight be attached to more recent expressions of policy. The Council have agreed that the East Ayrshire Local Plan should be considered a prime material consideration. The relevant policies in this plan are as follows:

Policy ENV1

The Council will seek to protect, preserve and enhance all heritage resources requiring conservation including Listed Buildings and Conservation Areas, together with their respective settings, Scheduled Ancient Monuments and Archaeological and Industrial Archaeological sites and landscapes.

It is considered that the application to build the bridge in an unsuitable replica stone as proposed would not accord with the intent of this policy

as it would in the Council's view, neither preserve nor enhance the setting of the main house.

Policy ENV4

The Council will seek to ensure that all development within or affecting the setting of a Conservation Area or affecting the appearance or setting of a Listed Building, is sympathetic to the area or building concerned in terms of its layout, size, scale, design, siting, materials and colour of finish. Wherever possible, all proposals should seek to preserve, enhance or incorporate features, which contribute positively to the character or appearance of the area and have due regard to the architectural and historic qualities of the area or building concerned.

It is considered that the proposal is not in accordance with this policy by reason of the proposed material and colour of finish.

Policy ENV14

This policy confirms that in assessing proposals there will be a general presumption against any development which would:

- (i) cause the permanent and irreversible loss of prime quality agricultural land (i.e. Classes 1, 2 and 3.1 in the Macaulay Land Classification System) (see Appendix 3);*
- (ii) have a permanent adverse impact or cause irreparable damage to built heritage resources requiring conservation or their settings include listed buildings, conservation areas, historic gardens and designed landscapes, scheduled ancient monuments, archaeological and industrial archaeological sites;*
- (iii) have a permanent adverse impact or cause unacceptable, irreparable damage to natural heritage resources requiring conservation and to existing species and habitats;*
- (iv) adversely affect the quality of water resources, water catchment areas, land drainage or flood protection interests or create water pollution problems;*
- (v) result in the destruction of any areas of peat which are considered to be of significant ecological value.*

Reason for Policy ENV14

To safeguard those features and elements of the rural environment which are of prime importance to the economy and appearance of the area.

It is considered that the proposal made in response to the Appeal decision is contrary to the terms of criterion (ii) of this policy.

Consultations

6.3 As detailed above, the consultees, whilst generally satisfied with the design of the bridge, are opposed to the use of a replica stone product.

It is considered that the applicant has been unable to produce a material whose characteristics are entirely consistent with stone and thus the application cannot be supported.

Representations

6.4 As per the consultees detailed above, the third party objectors are opposed to the use of a synthetic stone.

Noted.

Site History

6.5 The terms of the Reporters decision on this matter are clear. That decision however only seeks the rebuilding of the bridge to a condition similar to that before its removal. The condition of the original bridge prior to its loss is unknown there being no categoric evidence on that issue. It is clear that it was in a semi-derelict/ruinous condition. The applicants propose to build a complete new bridge, but with a replica stone product.

The submissions to date confirming the qualities of a replica stone material have not been sufficiently persuasive with respect to their being a suitable stone replacement. Therefore, the proposal to provide a new bridge is not considered sufficient compensation to warrant the use of a reconstituted substitute material.

Government Guidance

6.6 The Memorandum of Guidance on Listed Buildings and Conservation Areas 1998, confirms that the unauthorised demolition of a Listed Structure is not in accordance with Government Policy. Demolition should be undertaken only as a last resort, after it has been demonstrated that every effort has been made by all concerned to keep the structure.

No such effort was demonstrated in the circumstances of this proposal and accordingly the enforcement action was initiated and successful on appeal.

In respect of new build proposals in the vicinity of listed buildings assessment is based on the effect the proposal will have on the setting of the listed building. In this instance the applicants have contended that a suitable alternative to stone could be found. In addition, the proposal offered the prospect of a 'complete' bridge rather than one

returned to its previous semi-ruinous condition. Over several months the applicants have been unable to identify a suitable material. Consultation responses have subsequently stated that there is no material that faithfully replicates the qualities of natural stone. Accordingly, it is considered that the proposal is not compatible with the Government advice on these matters and should therefore be refused.

7. FINANCIAL AND LEGAL IMPLICATIONS

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

8. CONCLUSIONS

8.1 As is indicated in Section 5 of the report, the application is considered to be contrary to the Development Plan. Therefore given the terms of Sections 25 and Section 37(2) of the Town and Country Planning (Scotland) Act 1997 the application should be refused unless material considerations indicate otherwise. As indicated in Section 6 of the report there are material considerations relevant to this application. It is considered that these, add weight to the presumption in favour of the development plan and in turn would support the refusal of this application.

9. RECOMMENDATION

9.1 It is recommended that the application be refused for the reasons indicated on the attached sheet.

CONTRARY DECISION NOTE

Should the Committee agree that the application be approved contrary to the recommendation of the Head of Planning and Building Control, the application will require to be referred to the Development Services Committee because it would constitute a significant breach of Council policy.

Alan Neish
Head of Planning and Building Control

25 March 2003

(IW/MS)

FV/DVM

BACKGROUND PAPERS

1. Application form and plans.
2. Statutory notices/certificates.
3. Consultations.
4. Correspondence.
5. Representations.
6. Reporters Decision Letter, Ref P/LBE/190/5.
7. Memorandum of Guidance on Listed Buildings and Conservation Areas 1998.
8. Ayrshire Joint Structure Plan.
9. Adopted Stewarton Local Plan 1989.
10. East Ayrshire Local Plan.

Anyone wishing to inspect the above papers should contact Ian Walker (01563 576769).

Implementation Officer: Dave Morris

Form TP24

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application No: 02/0171/FL

Location:	Dunlop House DUNLOP
Nature of Proposal:	Proposed Reconstruction of Bridge Over Clerkland Burn
Name & Address of Applicant:	McTaggart Construction 36A Templand Road DALRY KA24 5EU
Name & Address of Agent:	Vic Swindall ADM Architecture & Design Ltd Portland Business Centre Portland Road IRVINE KA12 8JE

DPO's Ref: IW/MS

The above FULL application should be refused on the following grounds:

1. The development would by reason of the proposed finishing material be contrary to Policies ENV1 and ENV4 of the East Ayrshire Local Plan Finalised Version with Modifications in that it would comprise development unsympathetic to its setting and the adjacent "A" Category Listed Building.
2. The proposed development would by reason of proposed finishing material be contrary to Policy E20 of the Joint Ayrshire Structure Plan in that it would comprise a development inconsistent with and having an adverse effect on the "A" Category Listed Building.
3. The proposed development is contrary to the Memorandum of Guidance on Listed Buildings and Conservation Areas in that it would have a detrimental impact on the setting of a Listed Building by reason of its use of inappropriate materials.
4. The proposed development, by reason of the use of synthetic materials, would be visually inappropriate within the curtilage of the "A" category Listed building.

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