

**ROWALLAN OLD CASTLE, KILMAURS,
AYRSHIRE**

REPORT OF PUBLIC LOCAL INQUIRY

**ANCIENT MONUMENTS AND ARCHAEOLOGICAL
AREAS ACT 1979**

**APPLICATION BY DUFFIELD MORGAN LTD
FOR SCHEDULED MONUMENT CONSENT
FOR COMPLETION OF RENOVATION AND
TO REINSTATE BUILDING INTO HABITABLE
CONDITION FOR THE OWNER'S USE**

**TOWN AND COUNTRY PLANNING (SCOTLAND)
ACT 1997**

**APPLICATION BY DUFFIELD MORGAN LTD
FOR PLANNING PERMISSION FOR CHANGE OF USE
AND REFURBISHMENT OF EXISTING VACANT
CASTLE TO FORM OVERNIGHT ACCOMMODATION
FOR USE IN CONJUNCTION WITH HOTEL**

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Dates of Inquiry: 24, 26-28 June, 1-4, 30-31 July, 2 August 2002

File refs: AMH/90254/1/1 & P/PP/75/96/SF/35

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File references: P/PP/75/96/SF/35
& AMH/90254/1/1

30 December 2002

The Scottish Ministers
Victoria Quay
Edinburgh

Ministers

We have the honour to report that, in accordance with minutes of appointment dated 13 and 29 May 2002, we held a public local inquiry regarding the following applications relating to Rowallan Castle, Rowallan Estate, Kilmaurs, Ayrshire:

- an application for Scheduled Monument Consent, by Duffield Morgan Ltd, per Alexander George & Co (Investments) Ltd as agent, for the completion of renovation and to reinstate building into habitable condition for the owner's use; and
- a planning application, also by Duffield Morgan Ltd, for the change of use and refurbishment of existing vacant castle to form overnight accommodation in conjunction with hotel.

The application for scheduled monument consent, made under the Ancient Monuments and Archaeological Areas Act 1979 (the 1979 Act) was sent to Historic Scotland on 27 November 2000. On 8 January 2001, Historic Scotland advised the applicant that, in view of its "in principle" objection, and the similarities of the proposal with past submissions, it would be its advice to Scottish Ministers that they refuse Scheduled Monument Consent for the conservation of the castle as defined in the conservation plan accompanying the application.

Historic Scotland set out its "fundamental concerns" in the following terms:

1. "The cultural significance of the monument is such that we cannot accept such changes of use or alterations to the fabric (particularly as described in the application) as would be incompatible with this status.
2. The importance of the monument is such that we could not contemplate de-scheduling, and since occupation of a scheduled monument is not permitted by the 1979 Act - other than for a person "employed as a caretaker thereof" - this application is not compatible with its scheduled status.
3. Use of the castle as accommodation is not compatible with the provision of public access to a monument in the care of Scottish Ministers.
4. The Ancient Monuments and Archaeological Areas Act 1979 imposes considerable obligations on Scottish Ministers to secure the long-term future of any Guardianship Monument. In addition, it obliges them to maintain and provide public access to the

monuments for the future. The proposals do not appear to offer a solution that addresses these issues”.

Secondary concerns, in clause 5 of the letter, were stated to lie with the technical competence of the scheme, namely:

a. The proposed change of use would require a level of servicing (particularly in relation to fire detection, sanitation, heat insulation and ventilation) incompatible with a building of this sensitivity. The proposals give no indication of how the very onerous requirements of the law and of the relevant statutory authorities would be addressed.

b. No archaeological project design had been submitted for the work within the castle and courtyard or for that associated with the creation of a new garden within the scheduled area.

Following discussions with Historic Scotland, the applicant elected to exercise the right afforded by Part 1 of Schedule 1 to the 1979 Act to “an opportunity of appearing before and being heard by a person appointed by the Secretary of State” before the application was determined.

The planning application was submitted to East Ayrshire Council on 17 April 2001. The council notified Scottish Ministers on 31 October 2001, under the terms of the Town and Country Planning (Notification of Applications) (Scotland) Direction 1997, that it had resolved to grant planning permission for the proposal, subject to conditions, against the advice of Historic Scotland.

The council stated that it considered that the application accorded with the development plan and that the material considerations that it regarded as most significant, namely the circumstances of the programme of internal works, and the ability to confine the use to the building itself and avoid disruption to the setting, were generally supportive of the application, and added weight to the presumption in favour of the development plan.

Ministers decided that they wished to determine the application themselves, and issued a Direction to that effect, in terms of section 46 of the Town and Country Planning (Scotland) Act 1997, on 21 December 2001. The reason for the Direction was in view of the proposal’s possible implications for policies set out in National Planning Policy Guidelines on Archaeology and Planning (NPPG 5) and Planning and the Historic Environment (NPPG 18). They also decided that the application should be considered at a conjoined inquiry, together with the application for Scheduled Monument Consent.

A pre-inquiry procedure meeting was held on 15 April 2002. The inquiry took place on 24, and 26-28 June, on 31 July, and on 2 August within the Grand Halls, London Road Kilmarnock; and on 1-4 and 30 July in the Main Meeting Room, East Ayrshire Council Headquarters, London Road, Kilmarnock. We made accompanied inspections of the castle and its surroundings on 24 June, before formally opening the inquiry, and on 2 August, prior to hearing closing submissions.

The report is based on matters as they stood at the conclusion of the inquiry. It does not take account of post-inquiry correspondence and enclosures from the applicant dated 30 August, 18 September and 4 October, which have not been circulated to parties. However, the material concerned has been placed on the files and the applicant has been advised that it would be available to Ministers when they determined the applications. The report also takes no account of SPP 1: The Planning System, which was published on 15 November 2002. SPP 1 updates NPPG 1, which was discussed at the inquiry.

Written submissions received from parties who did not appear at the inquiry and responses to consultations undertaken by East Ayrshire Council are summarised in Chapter 7 of this report. Appendix 1 lists inquiry documents, including the extract from the statutory list relating to Rowallan Castle, which, by agreement, has been added to the documents. Appendix 2(a) comprises planning conditions proposed by the council. Appendix 2(b) reproduces HS/37, draft conditions suggested by Historic Scotland in the event that Ministers decide to grant Scheduled Monument Consent. The precognition that was to have been delivered by Geoffrey Stell, but which was agreed for its terms, accompanies this report.

We draw attention to the submission for the applicant (reported at paragraph 8.3.27) that no member of Historic Scotland staff connected with the application should provide advice or substantive comment on the merits of these cases to the Division of the Scottish Executive charged with the duty of reporting it to Ministers and taking the decision. However, we do not regard that as a matter on which it would be appropriate for us to make a formal recommendation.

Appearances at the inquiry were as follows:

For the applicant

Mr John D Campbell Q C, assisted by Mr Maurice O'Carroll, Advocate, who called:

Mr Niall A Campbell, Managing Director, Duffield Morgan Ltd and Alexander George (Investments) Ltd.

Mr Tom McNally, Dip TP MRTPI, McNally Associates, Planning & Development Consultants

For East Ayrshire Council

Ms Karen McLeod, Solicitor, who called:

Mr Ian Walker, Dip URP MRTPI, Planning Officer, East Ayrshire Council

For Historic Scotland

Mr Jonathan Brodie, Advocate, who called:

Dr Dorothy Bell DA PhD Reg Arch

Mrs Doreen Grove BA FSA(London) FSA(Scot)

Mrs Lily Linge MA (Hons) FSA(Scot), Heritage Planning Manager, Historic Scotland

Mr Alan J Wallace MRICS MIFireE MBEng MAPS, Director, Cairn Property Consultants

Mr Chris Watkins B Arch RIBA MARB, Regional Director (South), Properties in Care
Historic Scotland
Mr Andrew Wright OBE B Arch RIBA PPRIAS FRSA FSA(Scot)

For the Scottish Civic Trust

Mr Terence Leventhal, BES (Hons) Dip UD FSA(Scot) Director

ABBREVIATIONS

AMB	Ancient Monuments Board
ADS	Ayrshire Development Strategy
AGL	Alexander George (Investments) Ltd
AHSS	The Architectural Heritage Society of Scotland
AJSP	Ayrshire Joint Structure Plan
BSR	Building Standards Regulations
CLEUD CP	Certificate of Existing Lawful Use or Development Conservation Plan
DG DML	Deed of Guardianship Duffield Morgan Ltd
EAC EALP	East Ayrshire Council The Finalised East Ayrshire Local Plan (with modifications)
FP Act	Fire Precautions Act 1971
GHS	The Garden History Society
HLF HS	Heritage Lottery Fund Historic Scotland
LBC LWS	Listed Building Consent Listed Wildlife Site
MCU	Monument Conservation Unit
NPPG(s)	National Planning Policy Guideline(s)
PAN(s) PIC LB & CA (S) Act	Planning Advice Note(s) Property in Care The Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997
RCAHMS	Royal Commission on Ancient and Historical Monuments of Scotland
SAM SCT SE SLP	Scheduled Ancient Monument Scottish Civic Trust Scottish Executive Stewarton Local Plan
SMC SNH SWT	Scheduled Monument Consent Scottish Natural Heritage Scottish Wildlife Trust

T & CP (S) Act

The Town and Country Planning (Scotland) Act 1997

UCO

The Town and Country Planning (Use Classes)(Scotland)
Order 1997

WoSAS

West of Scotland Archaeology Service

1. THE APPLICATION SITE, ITS SURROUNDINGS AND THE PROPOSALS

The application site and its surroundings

1.1 Rowallan Estate is situated in a rolling agricultural landscape about 4 km north of Kilmarnock, to the north of the B751, mid-way between Kilmaurs (to the south-west) and Fenwick (to the north-east). An unclassified public road linking the B751 with the B778 via Tannacrieff skirts the eastern edge of the estate, of which 83 ha are included in the 1988 Inventory of Historic Gardens and Designed Landscapes in Scotland (the Inventory, HS/40). The estate is also identified by the Scottish Wildlife Trust (SWT) as a Listed Wildlife Site.

1.2 Alexander George & Co (Investments) Ltd (AGL) purchased the estate from Lord Rowallan's Trustees in 1990. Title passed to Duffield Morgan Ltd (DML) in 1997. The area edged blue in the 1:10,000 scale plan submitted with the planning application (EAC/1) shows the extent of DML's current ownership, which includes the Category A listed 16th and 17th century Rowallan (Old) Castle (the castle), which is the subject of the 2 applications considered at the inquiry. The castle is located in the eastern part of the estate, to the west of the main driveway leading from the B751, near the confluence of the Balgray Mill Burn and the Gardrum Mill Burn. Access from the driveway is via a narrow stone arched bridge over the Carmel Water, which forms the continuation of the 2 burns, and thereafter through an arched pend.

1.3 The castle, and an area of adjoining land, is also a Scheduled Ancient Monument (SAM). HS/10 shows the extent of the scheduled area, which extends to about 1.4 ha. The castle and part of the scheduled area, extending to about 0.6 ha, are also subject to a Deed of Guardianship (HS/11) entered into under section 12 of the Ancient Monuments (Consolidation and Amendment) Act 1913 by the late Lord Rowallan and the Minister of Works in 1950, whereby the Minister accepted guardianship "in order to provide for the preservation and maintenance" of the area concerned.

1.4 Geoffrey Stell's precognition describes evidence of prehistoric occupation of the tower mound of the castle, and to 7 subsequent main historical periods of development. These are also illustrated after page 7 in HS/25, the Monument Management Plan prepared by Historic Scotland (HS) and can be summarised as follows:

- **Phase 1. Latter half of 13th century.** A hall/tower of uncertain extent erected by Gilchrist Mure (d.1277).
- **Phase 2. Pre-1513, probably late 15th century.** Tower re-designed and probably linked with first phase of a hall-gatehouse (east) range, possibly by John (II) Mure (d.1513). Note especially the fragmentary remains at the east end of the south range.
- **Phase 3. c.1513-1547.** South range, comprising hall and chambers above four vaults and associated passage, built by Mungo Mure (d.1547).
- **Phase 4. c.1562/7-1591.** Double-towered frontispiece and stairs added to east (gatehouse) range, and western end of south range rebuilt to incorporate a 'woman house' by John (III) Mure (d.1591).
- **Phase 5. c.1639-57.** Western kitchen extension to north range, western enclosure wall rebuilt and the whole house 'reformed ... exceedingly' by William (III) Mure (d.1657).

- *Phase 6. c.1661.* Outer gateway and the upper part of the courtyard walls by William (IV) Mure (d.c.1686).
- *Phase 7. Late 17th or 18th centuries.* Internal partitions, plinishings etc which are unattributed, some possibly by the Boyle or Campbell successors to the Mures.

1.5 An aerial view (Plate 1) in the Conservation Plan (CP, part 2 of HS/1) of December 2000, and submitted with the planning and Scheduled Monument Consent (SMC) applications shows the castle, as it now stands, and its immediate setting. The building appears as a stone courtyard house, with south and east ranges and a ruined north tower. The south and east ranges have pitched slated roofs, the latter including a small skylight in the west-facing roofslope, facing the courtyard. An area of the ruined tower was the subject of archaeological excavation in the period 1998-2000 commissioned by HS.

1.6 The castle is not currently occupied, but HS has undertaken significant repairs and renewals during its period of Guardianship and the finishes described below represent its current state. The intact areas of the building have a water supply, electricity and a ground floor toilet. The schedule overleaf relates the room reference system employed by the applicant to that in HS/25.

1.7 Excluding the ruined tower, the castle has an L-shaped plan. It has 4 principal levels: a basement under the south-western range, ground floor (split level), first floor, and attic over the south eastern range. The basement walls are bare stonework unplastered with stone and/or earth floors. Ceilings are timber, some original, some renewed.

1.8 The main entrance is on the south-eastern side via a flight of steps between 2 conical drum towers flanking a sculptured main doorway and leading up to the ground floor level. Either side of this entrance passage are small cellular rooms, G4 and G6 (33 and 31 in HS/25) with stone walls, earth floors and joisted ceilings supporting boarding or stone slabs. The passage opens into the inner courtyard. From here, there is independent access to G3 (29), the proposed clan room/museum. This room has an earth floor and partly plastered walls.

1.9 The courtyard also gives access to the south-eastern range. Room G12 (20) is a lobby separated from a small room G13 (19) by a brick partition, and leading to the main hall G11 (21) and the solar G10 (22). Room G11 has timber panelled walls to 2 walls and wainscot boarding (referred to at the inquiry as the "B & Q panelling") to the other 2 walls. The ceiling of this room is plasterboard and plastered. The main feature of the room is an inset fireplace. An oak door leads to the staircase. The solar is a smaller living room with a timber-boarded floor and ceiling, mostly recent. The stone walls have had their joints picked out. The main feature is a stone fireplace that has already been repaired (and dated as such). This room is the subject of discussion regarding panelling currently stored in the Lorimer House, and referred to in the drawings of MacGibbon and Ross (who recorded the castle in 1887, HS/29).

1.10 Room F11 (40) is a large lobby space at 1st floor level connecting various rooms. The principal bedroom F13 (42) includes a timber-recessed bed with panelled cupboards on both sides, under a vaulted ceiling. Room F6 (35) is the other principal room at this level. Rooms F7 and F8 (41 and 38) both have a stone slab floor supported by oak joists. The main feature of this area is a cob partition (also referred to as wattle and daub) partly exposed. The passage F8 (38) opens into 2 circular spaces F9 and F10 (37 and 39) that form the drum towers. Some areas are plastered but most are left as bare stone with picked joints. The ceiling throughout this range is new oak joists and softwood boarding. In the south-western

ROWALLAN CASTLE – ROOM DESIGNATIONS

Basement

Historic Scotland room areas	DML room areas
1	G16
2/5 (staircase)	B11/G14
7	-
7	-
9	-
11	-
6	-
52	-
12	-
5	-

Ground floor

Historic Scotland room areas	DML room areas
18	G17
17	G16
5/16 (stairs)	G14/G15
20	G12
21	G 11
22	G10
4	G 18
24	-
33/34	G6
30	-
31/32	G4
29	G3
26, 27, 28 & 53	Not shown

First floor

Historic Scotland room areas	DML room areas
47	F18
46	F16
4	F17
44/45	F14/15
42	F13
25	F12
40	F11
39	F10
41	F7
38	F8
37	F9
35/36	F6

Second floor

Historic Scotland room areas	DML room areas
49/50/51	A2
25/43	Not shown

wing at this level, room F14/15 (44/45) is a large area now divided in two by a timber stud partition, with plasterboard lining. The coombed ceiling and walls are plastered.

1.11 The attic space A2 (49) "the gallery" is a long room over the south-eastern range, again with small turret spaces corresponding to the drum towers. Access is from a single stair (43) that leads off the main staircase F12 (25). The space has been re-roofed in the 19th century style of rafters and tie beams in softwood, covered with boarding and slates. The whole area is open with the stone walls, generally stopping at wall plate level, but in places taken to the underside of the roof finish. The softwood flooring is relatively new.

1.12 The "woman house" is on 2 levels. The principal ground floor room G16 (17) is entered from the lobby G12 (20) and has a toilet G17 (18). The first floor room F16 (46) can only be entered from the courtyard via a circular staircase F17 (4), and it too has a small room off it F18 (47). The walls at both levels are panelled although one feature is that some panels are plaster, but with the appearance of raised and fielded timber. Both rooms have inset fireplaces, softwood boarded floors and plastered ceilings, F16 (4) with a cornice moulding.

1.13 Windows throughout the castle vary in style, but most conform to a casement or double hung sash pattern, with broad astragal mouldings and single glazing. Internal doors are all individual, some of oak panelling, or in the case of A2 (49) cross layered softwood; others, for example in the woman house, are of classical 6-panelled style with raised and fielded panels.

1.14 The castle is one of 6 listed buildings on the estate. The other listed buildings comprise the Category A listed Rowallan House (the Lorimer House), about 300 m north-west of the Old Castle. It was completed in 1906, based on a design by Robert Lorimer. The Gatehouse at the main entrance to the estate, the Summerhouse and Walled Garden about to the north of the Old Castle, and the Stables and adjoining cottages are all Category B listed.

1.15 A number of planning permissions and listed building consents for hotel and leisure developments on the estate, including a golf course, and the alteration and change of use of the Lorimer House to a golf clubhouse/conference facilities and to a hotel were granted between 1989 and 1998. In 2001, following a public local inquiry and the completion of a section 75 agreement between East Ayrshire Council (EAC), DML and Rowallan Holdings (who were also stated to own part of the application site at that time) Scottish Ministers granted outline planning permission for the conversion of the Lorimer House to a hotel and leisure facilities; ancillary accommodation in estate buildings; the erection of 49 houses; a 18-hole championship golf course; and landscaping and road improvements.

1.16 The section 75 agreement obliged the applicant to undertake off-site road improvements and estate and landscape management; stipulated the phasing of the development, whereby, *inter alia*, the hotel, golf clubhouse and golf course require to be under construction prior to the development of the first group of houses; and required the submission of a design brief. The applicant, HS, and the council agree that the permission does not authorise the change of use of, or works to, the Old Castle. At the time of the 2002 inquiry, none of the matters reserved by that permission had been submitted to EAC for approval and no site works related to it had commenced.

The planning application

1.17 The planning application (EAC/1, EAC reference 01/0240/FL) is for full planning permission. It relates to virtually all of the scheduled area and was accompanied by the 1:10,000 scale plan referred to at paragraph 1.2 above, by a folder of drawings produced by Robertson design Architects for AGL, and by the CP. The drawings comprise a block plan (550/BP), a series of annotated floor plans (550/01-/04), elevations (550/05-/07), and sketch proposals and photographs of parts of the interior (550/08-/011). The folder also includes duplicates of drawings 550/01-/04, annotated in manuscript to show new water supply and drainage pipes and a wet heating system.

1.18 Notes on the drawings of the interior include proposals for internal wall, floor and ceiling finishes, the re-creation of the kitchen as an exhibition, the installation of new toilet and bathroom facilities, the removal of a new partition and some original panelling, and the fitting of other original and replica panelling fitted. Means of installing services is described. Furnishings and fittings are to be selected to be "consistent with period i.e. 16th century, and to be kept to a minimum".

1.19 The block plan (550/BP) notes that a former formal garden to the north-west of the castle will be "restored to agreed design", that the side of the banks to the Carmel Water will be "made good", and that a yew tree walk to the north of the castle will be restored. It also describes existing stone walls and a barn to the west of the castle as restored and rebuilt, respectively, and states that new gas and water supplies would be taken to the castle. No details of any of these matters are provided. The only elevational change shown is the installation of two new C1 rooflights "to match existing" in the north-facing roof slope of the south range.

The application for Scheduled Monument Consent

1.20 The SMC application, as submitted to HS, comprised the application form, the CP and drawings 550/BP and 550/01-/011 (HS1/1-HS1/3). The 1:20 and 1:50 scale drawings AGL 15-22 (items 5-12 in the folder of plans that is document DML/1) amplifying the applicant's proposals for drainage were submitted in May 2002, following the pre-inquiry meeting. It was agreed at the inquiry to treat drawings AGL 23-26 (drawings 550/01-/04 annotated to show the installation of a dry heating system) as part of the application and as representing the applicant's preferred intentions regarding heating.

1.21 A supplementary application for excavation seeks consent to excavate a drainage track "to be supervised by HS foreman".

2. STATUTORY AND POLICY CONTEXT

Statutory context

2.1 The following statutory provisions were referred to at the inquiry:

The Town and Country Planning (Scotland) Act 1997 (T & CP (S) Act)

- section 25: 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.
- section 37(2): In dealing with such an application (for planning permission) the (planning) authority shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations.

The Planning (Listed Buildings and Conservation Areas) Scotland) Act 1997 (LB & CA (S) Act

- section 55(1): The provisions mentioned in subsection (2) shall not apply to any building for the time being included in the Schedule of monuments compiled and maintained under section 1 of the Ancient Monuments and Archaeological Areas Act 1979.)
(2) Those provisions are sections 3, 4, 6 to 8, 42, 49 and 53.
- section 59(1): In considering whether to grant planning permission for development which affects a listed building or its setting, a planning authority or the Secretary of State, as the case may be, shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
(3): In this section, "preserving", in relation to a building, means preserving it either in its existing state, or subject only to such alterations or extensions as can be carried out without serious detriment to its character, and "development" includes redevelopment.

The Ancient Monuments and Archaeological Areas Act 1979

2.2 This Act consolidates and amends the law relating to ancient monuments, makes provision for the investigation, preservation and recording of matters of archaeological interest, and (in connection therewith) for the regulation of operations or activities affecting such matters.

- section 1(1) obliges The Secretary of State (now Scottish Ministers) to compile and maintain for the purposes of the Act, a schedule of monuments (the Schedule).
- section 1(3), subject to section 1(4), allows Ministers, in first compiling the Schedule, or at any time thereafter, to include therein any monument which appears to them to be of national importance.
- section 1(4) states that the power to include any monument in the Schedule does not apply to any structure which is occupied as a dwelling house by any person other than a person employed as a caretaker thereof or his family.

- section 2(1), read with section 2(2), makes it an offence to execute, or to cause or permit to be executed, any works resulting in the demolition, destruction, or damage to a scheduled monument; for the purpose of removing or repairing a monument, or part of a monument, or of making any alterations or addition to a monument; and any flooding or tipping operations on land in, on or under which there is a scheduled monument, unless the works are authorised under the Act
- section 2(3) states that the works are authorised if -
 - (a) Ministers have granted written consent for the execution of the works; and
 - (b) the works are executed in accordance with the terms of the consent and of any conditions attached to the consent.
- section 12(1) allows an owner of an ancient monument, with the consent (now) of Ministers, to constitute them by deed guardian of the monument.
- section 12(9), in general, binds subsequent owners to the deed.
- section 12(10) prohibits Ministers from consenting to become guardians of any structure occupied as a dwelling house by any person other than a person employed as a caretaker thereof or his family.
- section 13(1) places a duty on Ministers to maintain any monument which is under their guardianship.
- section 13(2) gives Ministers full control and management of any monument which is under their guardianship.
- section 13(3) gives Ministers power to do all such things as may be necessary for the maintenance of the monument and for the exercise by them of proper control and management with respect to the monument.
- section 13(5) allows Ministers access to the site of a monument for the purpose of exercising any of their powers under section 13.
- section 14 allows Ministers, by agreement made with the persons who are for the time being immediately affected by the operation of the guardianship deed:
 - (a) to exclude any part of the monument from guardianship; or
 - (b) to renounce guardianship.

2.3 An occupier is entitled to terminate the guardianship if:

- (a) he has any interest in the monument which would qualify him to establish guardianship under section 12; and
- (b) he is not bound by the guardianship deed.

- section 17(1) allows Ministers to enter into an agreement with the occupier of an ancient monument or of any land adjoining, or in the vicinity of, a monument.
- section 17(4) lists matters for which an agreement may provide. These include the maintenance and preservation of the monument and its amenities; the carrying out of any work specified in the agreement, public access; and the provision of facilities or other services for the use of the public.
- section 19 states that the public shall have access to any monument in guardianship, subject to the ability of Ministers, among other things, to control times of public access, and to exclude the public if considered necessary or expedient to do so in the interests of safety, or for the maintenance or preservation of the monument.

- section 24(5) prohibits Ministers from incurring expenses in connection with any monument which is occupied as a dwelling house by any person other than a person employed as a caretaker thereof or his family.

The development plan and the Finalised East Ayrshire Local plan

2.4 The statutory development plan covering the application site comprises the Stewarton Local Plan (SLP), which was adopted by the former Kilmarnock and Loudoun District Council in July 1986, and the Ayrshire Joint Structure Plan 1999 (AJSP), which was approved by Scottish Ministers in January 2000.

The Stewarton Local Plan (EAC/7)

2.5 The tourism aims of the adopted local plan include promoting the tourist potential of the former District and setting out a strict development control framework for the type and location of tourist facilities, particularly in residential areas and in the countryside (3.2.15 and 3.2.16). Environmental aims include conserving areas of "good" townscape, and buildings of special architectural or historic interest (3.2.17). Its policies include:

- **Policy 4.7.13:** There shall be a presumption against the demolition or part demolition of any listed buildings in the local plan area, and against any alterations to a listed building, which, in the opinion of the District Planning Authority, are detrimental to the character of that listed building.
- **Policy 4.7.15:** There shall be a presumption against any development affecting the site of a Scheduled Ancient Monument as shown on the Proposals Maps.
- **Policy 5.3.9:** Commercial or Industrial Development shall not be allowed in the countryside, outside the urban envelope of existing settlements as shown on the Proposals Maps, except:
 - (3) the use of existing buildings in the countryside as hotels, guest houses, holiday flats or institutional uses
 - any development under circumstances 1-7 above shall comply with the building design policies for rural areas and shall have adequate services and suitable access to a public road.
- **Policy 5.3.15:** The District Council shall presume against any development on the Listed Wildlife Sites (LWS) as shown on the Proposals Maps.

2.6 The Rural Area Proposals Map shows Rowallan Estate as an LWS, and as containing a Scheduled Ancient Monument.

The Ayrshire Joint Structure plan (EAC/6)

2.7 The AJSP's objectives include: to obtain a robust and sustainable development strategy; to assist in the development of a healthy and diverse economy as a source of wealth and jobs; and to conserve and enhance the natural and built environment and explore enhanced leisure opportunities. Key statements of strategic intent, on which the Ayrshire Development Strategy (ADS) is based, include promotion of economic growth, protection and enhancement of the countryside and the environment, and promotion of the principles of sustainable development. The plan states that the ADS, together with the industrial, residential, commercial, environmental and transport policies that support it, and the Strategic Development Guidelines in the plan, are inter-related and complementary; it is vitally

important to recognise that the objectives of one policy should not be achieved at the expense of another; and the plan has therefore to be read as a whole, and no one part taken out of that context.

2.8 AJSP Strategy policies include:

- **Policy ADS1:** The three Ayrshire councils shall promote sympathetic industrial and business development throughout Ayrshire in order to:
 - A foster the growth of the local economy;
 - B improve the economic well-being of existing and future residents;
 - C increase the prosperity of its business enterprises.
- **Policy ADS5:** The three Ayrshire councils shall adhere to the guiding principle of protecting the countryside for its own sake.
- **Policy ADS6:** The three Ayrshire councils shall identify and promote three broad policy areas for the countryside which exhibit common characteristics in terms of their ability to accommodate land use change and local plans shall bring forward specific policies for their identification, protection, management and development.
- **Policy ADS7:** The three Ayrshire councils shall adhere to the principles of sustainability in considering significant development proposals and identifying sites for development in local plans.

The Key Diagram includes Rowallan in a Rural Protection Area for the purposes of Policy ADS7.

2.9 The plan states that analysis suggests that Ayrshire relies more heavily on holiday tourism than the rest of Scotland, but under-performs in terms of business and conference tourism, and is over-dependent on the day visitor and the short summer holiday period. It also refers to an increasing awareness of the potential effects of tourism on the environment and, at the same time, a realisation that management can provide benefits in terms of jobs. "This has led to 'green' or sustainable tourism, with projects directly in harmony with, and capitalising on, the natural and built environment. In Ayrshire, this is likely to be particularly important in the future and could encourage tourist development away from the coast, thus spreading tourism opportunity throughout the area". It looks to tourism proposals to address these factors and planning policies that facilitate new tourism development opportunities.

- **Policy W5 follows:** 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.

2.10 Under Rural Economy, Policy W6 states:

- **Policy W6:** The countryside will be sustained as a place of varied and productive social and economic activity, whilst safeguarding and managing natural and built environmental resources. Accordingly, the three Ayrshire Councils shall seek:
 - A a partnership with rural communities and key support agencies to manage and
 - promote economic, social and environmental change;
 - B to promote business in rural areas; and
 - C encourage farming and forestry where this is sympathetic to the environment.

2.11 Environment policies discussed at the inquiry included:

- **Policy E1:** The quality of Ayrshire's landscape and its distinctive local characteristics shall be maintained and enhanced. In providing for new development, particular care shall be taken to conserve those features that contribute to local distinctiveness including:
 - A the settings of settlements and buildings within the landscape;
 - D historic landscapes.
- **Policy E20:** 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.

Local plans shall prepare detailed policies for their protection and enhancement.

2.12 The plan chapter on Strategic Development Guidelines sets down a general approach to dealing with development proposals and provides a context for identifying future development sites in local plans. Its stated purpose is, in part, to provide clarity in the guidance given to developers and to express a locational aspect of the strategy's attempt to make development more sustainable.

- **Policy G2** states: 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:
 - D prejudicing the use and enjoyment of natural environment and built heritage locations;
 - F unacceptable damage to existing species and habitats.
- **Policy G5** states: Development proposals in the Rural Protection Area shall normally be limited to the use of land within settlements. Outside settlements, development proposals shall conform to the structure plan where the development:
 - B provides for sensitive industrial, business, recreational or tourism development with a demonstrated site specific locational need;
 - C can be justified in terms of social and economic benefit to the community;
 - D contributes to rural land diversification; or
- **Policy G8** lists factors that local plans should seek to ensure in allocating land for development, including H, that sites conserve all natural environment and built heritage locations.

2.13 Definitions in the AJSP Glossary include:

- **Sustainable Development:** Development which can be shown to improve the quality of life whilst conserving the environment for future generations.
- **Sustainable Tourism:** The concept of sustainable tourism emphasises the need to use and develop tourist resources in a way which allows enjoyment while, at the same time, ensuring these resources will be preserved for use by future generations.

- **Cultural Heritage:** The elements of the built and natural environment that together combine to create a sense of place for an individual. Examples would include historic buildings, sites of archaeological value, conservation areas and other historic features...

The Finalised East Ayrshire Local Plan (EAC/8)

2.14 EAC published the Finalised East Ayrshire Local Plan, with Modifications (EALP) in January 2001. At the time of the inquiry, the report of an inquiry regarding objections to the plan was awaited.

2.15 The plan's primary strategic aim, which is to promote sustainable development, to maximise the potential of East Ayrshire and to improve the quality of life of its residents, is supported by 6 more specific aims. AIM 2 is to facilitate the expansion and diversification of the East Ayrshire economy and to maximise the economic potential of the area for industrial, business, commercial and tourism development. AIM 3 is to protect, conserve and enhance the character, appearance and amenity of East Ayrshire, especially as regards its landscape quality, the built and natural environment, and areas of natural heritage and built heritage importance.

2.16 The following Strategic Development policies were discussed at the inquiry:

- **Policy SD1:** The council shall adhere to the principles of sustainability in their consideration of all development proposals.
- **Policy SD2:** There will be an over-riding presumption that all new developments will be located within the East Ayrshire settlements, unless the development is acceptable to the council in terms of Policies SD3 and SD4 (which relate to Rural Diversification Areas).
- **Policy SD3:** Within the Rural Protection Area, development proposals relating to land outwith settlement boundaries will be acceptable to the council only where the development:
 - (i) comprises an acceptable form of residential use as detailed in Policy RES13; or
 - (ii) can be fully justified in terms of site specific locational need ; or
 - (iii) can be fully justified in terms of social and economic benefit to the community; or
 - (iv) contributes to rural land diversification; or
 - (v) provides for the operational needs of agriculture and forestry.
- **Policy SD7:** The council will positively support, encourage and promote the sympathetic upgrading, re-use and conversion of existing properties, both within the area settlements and throughout the rural area, in preference to the construction of new build properties.

2.17 Business and Industry **Policy IND10** lists exceptions to a general policy of restricting industrial and business development to settlements. These include (iii) sympathetic industrial and business development related to appropriate rural activities, such as small scale craft industries and leisure, recreation and tourism developments. The policy also requires all proposals for industrial and business developments in the countryside to be justified and assessed against their impact on the surrounding environment and adjacent uses,

transportation and infrastructure implications, loss of prime agricultural land and impact on natural heritage resources.

2.18 Under the heading of Tourism, Leisure and Recreation: Prime Objective, the plan states that the council is committed to exploiting the considerable potential of East Ayrshire for further growth in that sector and that it will expand and diversify the area's economic base through the development of tourism; improve the quality of life for both residents and visitors through the provision of leisure and recreation facilities; and promote East Ayrshire as a tourist and visitor destination in its own right. Paragraph 4.3 identifies deficiencies in the range, quality and variety of tourist accommodation and related facilities as a characteristic of the area. Tourism related developments in areas of tourism potential associated with East Ayrshire's famous sons, local historical events and local heritage are encouraged. Country Houses and Estates are identified among Areas of Tourist Potential. Rowallan Estate (80 ha, site ref 193M) is among Miscellaneous Development Opportunity Sites with Potential for Tourism, Leisure and Recreational Use and is identified as a Development Opportunity Site on the Rural Area Proposals Map.

2.19 Tourism policies include:

- **Policy TLR1:** The Council will actively support and assist in the development of sustainable tourism in East Ayrshire in accordance with the Local Plan Tourism, Leisure and Recreation Development Strategy.
- **Policy TLR3:** 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 structures are not visually or environmentally intrusive, are of a nature and scale compatible with surrounding land uses, and are not detrimental to the character and amenity of the area within which they are 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 provisions of Policy TLR4.
- **Policy TLR4** (in summary) states that all new tourist accommodation will be directed to existing settlements, although new hotel and self catering accommodation may be 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 TLR3.

2.20 Paragraph 10.1, Environment: Prime Objective, expresses the council's commitment to protecting, conserving and enhancing the character, appearance and amenity of the natural and built environment of East Ayrshire, listing built heritage among the key elements to be addressed in that regard. Paragraph 10.5 identifies the elements contributing to the built heritage of East Ayrshire as conservation areas, listed buildings, ancient monuments, archaeological sites, historic gardens and designed landscapes.

2.21 Environment policies discussed include:

- **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.
- **Policy ENV2:** The council will actively encourage the retention, restoration, renovation and re-use of listed buildings and other locally important, especially traditional older properties throughout the area. There will be a presumption against the demolition or partial demolition of all such properties.
- **Policy ENV3:** The council will actively encourage the retention and preservation of archaeological and industrial archaeological resources and ensure that, in cases where the primary aim of preserving archaeological sites cannot be achieved, developers carry out appropriate archaeological investigations and recording of remains within a proposed development site, prior to the development being commenced.
- **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.
- **Policy ENV5:** The council will seek to protect, preserve and enhance historic gardens and designed landscapes. (In summary) where a proposed development affects a site in the Inventory, a landscape management plan will require to be submitted as an integral part of any application. Outline planning applications for such developments will not be accepted.
- **Policy ENV14:** In assessing development proposals relating to land within the rural area which has not been identified as specific development opportunity sites on the plan maps, the Council will ensure that these have minimum impact on the rural environment. There will be a presumption against any development which would (among other things):
 - (ii) have a permanent adverse impact or cause irreparable damage to built heritage resources requiring conservation, or their settings, including listed buildings, conservation areas, historic gardens and designed landscapes; SAMs, archaeological and industrial archaeological sites.

2.22 The plan Glossary:

- reiterates the AJSP definition of sustainable development.
- defines Site Specific Locational Need as a requirement for a proposed development to be fully justified in terms of it being located on the particular, specific site on which it is proposed.

National Planning Policy and Guidance

National Planning Policy Guidelines and Planning Advice Notes

2.23 National Planning Policy Guidelines (NPPGs) provide statements of government policy on nationally important land use and other planning matters. Planning Advice Notes PANs provide advice on good practice and other relevant information.

NPPG 1 (Revised): The Planning System (EAC/9)

2.24 Paragraph 3 of NPPG 1 identifies the primary objectives of the planning system as:

- to set the land use framework for promoting sustainable development;
- to encourage and support regeneration; and
- to maintain and enhance the quality of the natural heritage and built environment.

It explains that development and conservation are not mutually exclusive objectives; the aim is to resolve conflicts between the objectives set out above, and to manage change. Planning policies and decisions should not prevent or inhibit development unless there are sound reasons for doing so. Paragraph 4 states that the purpose of the planning system is to guide change through an efficient and effective process that respects the rights of the individual, while acting in the interests of the wider community.

2.25 Paragraph 5 states that the Scottish Executive (SE) is committed to integrating the principles of sustainable development in its policy agenda; and that Scottish Ministers expect the planning system to support and inform the SE's wider policy agenda, linking principles and actions to enable sustainable development. Paragraph 6 states that, in particular, planning should encourage sustainable development by (among other things):

- promoting regeneration and the full and appropriate use of land, buildings and infrastructure;
- promoting the use of previously developed land and minimising greenfield development;
- conserving important historic and cultural assets;

2.26 Paragraph 7 expects development plan policies to address sustainable development at the local level, whilst reflecting national and international goals. It states that the short-term and the long-term consequences of policies must be considered from the outset; and that planning decisions should favour the most sustainable option, promoting development that safeguards and enhances the long-term needs of the economy, society, and the environment. When conflicts between the objectives inevitably arise, decisions should be taken in line with local priorities and needs as identified in the development plan.

2.27 Paragraph 44 states that the House of Lords' decision in *City of Edinburgh Council v the Secretary of State for Scotland* clarified the interpretation of sections 25 and 37(2) of the T & CP (S) Act 1997, and sets out the approach to deciding an application, namely:

- identify any provisions of the development plan which are relevant to the decision;
- interpret them carefully, looking at the aims and objectives of the plan as well as detailed wording of policies;
- consider whether or not the proposal accords with the development plan;

- identify and consider relevant material considerations, for and against the proposal;
- assess whether these considerations warrant a departure from the development plan.

2.28 Paragraph 46 states that there is an expectation that development proposals that are in accordance with the development plan will be granted planning permission. However, other considerations, such as more recent expressions of policy and planning guidance, may outweigh the policies of the plan similar circumstances may apply where plans are out of date and less relevant to changed circumstances.

2.29 Paragraph 48 identifies the two main tests in deciding whether a consideration is material and relevant, namely:

- it should serve or be related to the purpose of planning - it should therefore relate to the development and use of land; and
- it should fairly and reasonably relate to the particular application.

2.30 Examples of possible material considerations listed in paragraph 49 include:

- SE and Government policy;
- NPPGs and PANs;
- a draft structure or local plan;
- the environmental impact of the proposal;
- the design of the development and its relationship to its surroundings;
- access, provision of infrastructure and planning history of the site;
- views of statutory and other consultees;
- legitimate public concern expressed on relevant planning matters.

2.31 The NPPG states that it is for the decision-maker to consider whether a consideration is material, and to assess the weight to be attached to each consideration, and whether individually or together they are sufficient to outweigh the provisions of the development plan. Where development plan policies are not directly relevant to a proposal, or where there is no conflict with declared policy objectives, material considerations will be of particular importance. Paragraphs 50 and 51 relate to conditions that can be imposed, where it would otherwise be necessary to refuse planning permission. They should not be used to cover every eventuality but should be:

- relevant to planning;
- relevant to the development to be permitted;
- enforceable;
- precise;
- reasonable; and
- necessary.

2.32 Paragraph 54 states, with regard to other legislation, that planning decisions should always be made on planning grounds and in the public interest and that the planning system should not be used to secure objectives that are more properly achieved under other legislation. The grant of planning permission does not remove the need to obtain other statutory consents nor does it imply that these consents will be forthcoming. However, even where legal and administrative measures outwith the planning system may exist for

controlling a particular activity, this can still be a consideration to which weight is given in reaching a planning decision. If a consideration is material in planning terms, it must be taken into account in reaching a decision.

NPPG 5: Archaeology and Planning (EAC/10)

2.33 NPPG 5 sets out the Government's policy on how archaeological remains and discoveries should be handled under the planning system. Paragraph 3 states that, as part of its intention to work towards sustainable development, the Government seeks to encourage the preservation of sites and landscapes of historic and archaeological interest, so that they may be enjoyed today and passed on in good order to future generations. Means of meeting these aims include:

- looking after properties in Government care;
- promoting enjoyment and understanding of the heritage;
- encouraging private sector efforts, and making financial assistance available to help meet the extra costs of maintaining and restoring heritage property;
- identifying and recording our heritage; and
- ensuring that the legislative system properly protects and preserves it.

2.34 Paragraph 4 states that archaeological remains are a finite and non-renewable resource, and should therefore be regarded as part of the environment to be protected and managed. The primary policy objectives are that they should be preserved wherever feasible and that, where this proves not to be possible, procedures should be in place to ensure proper recording before destruction, and subsequent analysis and publication.

2.35 Paragraph 7 explains the responsibilities, now vested in Scottish Ministers, for maintaining a Schedule of nationally important monuments, for controlling works through Scheduled Monument Consent (SMC) procedures, for protecting and preserving archaeological remains of importance, and for promoting public understanding and enjoyment of historic monuments.

2.36 Paragraph 12 states that the government's aim is to accommodate development without eroding environmental assets, including archaeological heritage. The development planning system provides the policy framework for meeting the need for development along with the need for preserving archaeological resources, and for minimising the potential for conflict between these. Paragraph 14 states that planning authorities should ensure that archaeological features are as thoroughly assessed as any other material consideration. Paragraph 16 states that it is important that the integrity of the setting of archaeological sites be safeguarded, but that not all remains are of equal importance. "Authorities should therefore base their policies and development control activities on up-to-date knowledge of the various categories of archaeological remains in their area

2.37 Paragraph 17 sets out the policy approach to particular categories of archaeological sites. It states that, where development is proposed, planning authorities, using the categories outlined as a guide, should weigh the relative importance of the archaeological features in question and their potential use for amenity, tourism and education purposes against other features, including the benefits of the proposed development. With regard to SAMs, it states:

- SAMs 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 SAMs or the integrity of their setting should not be permitted unless there are exceptional circumstances.

2.38 Paragraph 25 states that the preservation of SAMs and their settings is a material consideration in determining planning applications; that where a planning authority decides that development resulting in the destruction of archaeological remains should proceed, it should satisfy itself, before granting permission, that the developer has made appropriate and satisfactory provision for the excavation, recording, analysis and publication of the remains. However, the provisions of the 1979 Act make it unnecessary to duplicate this control through planning conditions where SAMs are involved (paragraph 28). The NPPG concludes (at paragraph 31) that positive planning control, as well as development plans, can help to reduce positive conflict between development and preservation, and to indicate ways of preserving archaeological resources without unnecessarily delaying development. "The ultimate objective is to secure the best possible treatment of archaeological heritage, while at the same time accommodating the need for development".

PAN 42: Archaeology - The Planning Process and Scheduled Monument Consent Procedures (EAC/12)

2.39 PAN 42 gives more detailed advice on the handling of archaeological matters within the planning process and on the separate controls under the 1979 Act. Paragraphs 41-62 deal with the legislative arrangements for SAMs. Paragraph 44 states that, where buildings are both scheduled and listed, ancient monuments legislation takes precedence, and SMC, rather than listed building consent, is required for works. Paragraph 49 states that the scope of SMC control is both more extensive and more detailed than that applied to listed buildings and, unlike planning permission, there is no provision for granting outline consent.

NPPG 15: Rural Development (EAC/14)

2.40 This NPPG sets out how the statutory land use planning system can assist the rural areas of Scotland achieve sustainable development. Paragraph 15 identifies achieving a quality of development on the ground which respects the integrity of the built and natural environment; while paragraph 17 refers to the Government's commitment to the protection, conservation, and enhancement of the historic environment so that it may be enjoyed today and passed on in good order to future generations. Paragraph 43 states that will often be best secured through appropriate productive use of historic buildings and that, in assessing proposals, it is important that councils avoid works which will have a harmful effect, for example on listed buildings, SAMs, and archaeological sites.

NPPG 18: Planning and the Historic Environment (EAC/11)

2.41 NPPG 18, having identified the historic environment as including ancient monuments, archaeological sites and landscapes, states that it deals primarily with listed buildings, conservation areas, world heritage sites, historic gardens, designed landscapes and their settings; and that it complements NPPG 5, which sets out the role of the planning system in protecting ancient monuments and archaeological sites and landscapes. Paragraph 3 confirms the need to secure preservation, while accommodating and remaining responsive to present day needs, as central to the Government's approach to the historic environment. Paragraph 5 stresses the immense importance of the historic environment for education, recreation, leisure, tourism and the wider economy.

2.42 Paragraph 8 acknowledges that historic areas can experience obsolescence, neglect and deterioration of their physical fabric and erosion of their character and distinctiveness; that pressures for change can present difficult issues; and that planning has a role to play in reconciling the need for protection with the need to accommodate and promote suitable opportunities for change. Paragraph 11 refers to planning's role in enabling appropriate development. In doing so, it can safeguard the historic environment from inappropriate development, and provide for change that respects the character of, and provides for the needs of people within these areas. Paragraph 12 refers to the requirement imposed by section 59(1) of the (LB & CA)(S) Act in the determination of planning applications. Paragraph 16 confirms that the effect of a proposed development on an historic garden or designed landscape is a material consideration in the same context.

2.43 Paragraph 20 confirms that sustainable development is an over-arching theme that lies at the heart of Government policy; the Government recognises the historic environment as a finite, non-renewable resource, and echoes paragraph 17 of NPPG 15. It also identifies avoiding the neglect and loss of built fabric, and promoting the efficient use and re-use of land and buildings in the historic environment as ways in which the planning system can contribute towards sustainable development.

2.44 Paragraph 21 states that, although the most appropriate use for a historic building is likely to be the use for which it was designed, new economic uses should be found for such buildings where they can no longer reasonably be expected to serve their original purpose over the long term. The "best viable use" may not be the most profitable use, and the aim should be to find a new economic use that is viable over the long term, with minimum impact on the special architectural and historic interest of the building. Achieving best viable use may require adaptation of the fabric, which should be undertaken carefully and sensitively, having regard to its architectural and historic interest, character and setting. Deciding whether development proposals demonstrate best viable use will require careful judgement; a balance between the economic viability of possible uses, the special architectural or historic interest involved, imagination, co-operation, flexibility, market awareness, technical knowledge and a proper understanding of the relative importance of the different aspects of the historic environment. Paragraph 58 concludes that conservation should not be backward looking; that the NPPG advocates a positive approach and emphasises the need to find ways in which the active life of historic buildings and the wider historic environment can be sustained; and that maintaining and enhancing the vitality, viability and vibrancy of some areas is closely linked to maintaining the quality of the historic environment. "A positive approach to conservation can therefore result in wider economic, social and environmental benefits".

2.45 Paragraph 38 lists factors to assist development control decisions that affect the historic environment, including ensuring that:

- applications are accompanied by sufficient information on the historical, architectural, environmental and archaeological significance of the site along with details of the nature of the development, so that the impact of the proposals can be assessed and proposals justified;
- proposals are based upon detailed knowledge of traditional building materials and methods of construction and their performance.

The Memorandum of Guidance on Listed Buildings and Conservation Areas

2.46 The Memorandum of Guidance on Listed Buildings and Conservation Areas (the Memorandum, HS/30 is extracts), published by HS in 1998, sets out general principles for dealing with listed buildings and conservation areas. Paragraphs 1.24-1.29 consider the overlap between listing and scheduling:

- paragraph 1.24 refers to Ministers' duties with regard to scheduling;
- paragraph 1.25 states that the criterion for scheduling is that the monument should be 'of national importance';
- paragraph 1.26 describes the statutory provisions that apply when a building is both scheduled and listed, and stresses the need to consider the setting of such buildings in determining a planning application;
- paragraphs 1.27 and 1.28 set out the requirements for planning authorities to consult the Secretary of State (now Scottish Ministers) on planning applications affecting the site of a scheduled monument or its setting, and a Category A listed building or its setting;
- paragraph 1.29 explains that planning authorities must consult SNH and Scottish Ministers where development is proposed in areas identified in the Inventory.

2.47 Paragraphs 2.15-2.20 consider new uses for old buildings, in summary:

- Paragraph 2.15: new uses for old buildings may often be the key to their continued survival and sympathetic consideration will be given to any applications for the relaxation of building regulations that may be referred to Ministers. However, for certain types of conversion, such as hotel use, it will also be necessary to comply with the requirements of the fire authority and care should be taken to consider the probable effect of these requirements before granting change of use.
- Paragraph 2.16: the best use for an historic building is usually the use for which it was designed and wherever possible, particularly if residential or ecclesiastical use, should continue. If the use has changed from the original, it should be considered whether it can revert to it. If that is not practical, it is essential to find an appropriate alternative. Any changes to a listed building may conceal, disturb or destroy evidence for that building's architectural history of development and modification, and also for the history of the site on which it stands.
- Paragraph 2.17: planning consent (sic) in principle for change of use without supporting plans calls for special care to determine whether a listed building can reasonably fulfil the new use without undesirable destruction or sub-division of interior work
- Paragraph 2.18 deals with vacant and redundant buildings.
- Paragraph 2.19 deals with changes in farming and rural life.
- Paragraph 2.20 advocates flexibility in dealing with applications for changes of use of buildings of architectural or historic interest, stating that consent should not be refused, except where specific and major difficulties cannot be overcome by attaching reasonable conditions.

2.48 Paragraph 2.21 states that, when considering applications for the alteration or extension of listed buildings, planning authorities should satisfy themselves that no unnecessary damage to historic structures would be caused, and that any new external or

internal features harmonise with their surroundings. Architectural integrity should be preserved, and where this has been lost, restoration should be encouraged.

Passed to the Future: Historic Scotland's Policy for the Sustainable Management of the Historic Environment (HS/13)

2.49 This document sets out policy for the sustainable management of Scotland's historic environment, stressing the value of retaining and, where possible and right to do so, re-using existing structures and materials. A Minister's Foreword states that this document sets out for the first time the SE's policy for the sustainable management of Scotland's historic environment. Its definition of the historic environment encompasses both tangible elements such as ancient monuments, archaeological sites and historic buildings, and less tangible aspects, such as historical, artistic and scenic associations.

2.50 Under Key Principles, it recognises that the historic environment is not static, and has been continually adapted to meet changing needs, listing the following principles as fundamental in establishing parameters necessary to guide change, so that it enhances rather than diminishes historic character:

- **Recognising value:** the possibility of using historic features while retaining their value.
- **Good stewardship:** which should have regard to capacity for change as well as to the sustainable use of resources.
- **Assessing impact:** stresses the importance of being sure that the impact of actions is clearly understood; if this cannot be assessed with confidence, then, following the precautionary principle, damaging actions should be avoided. Use and management should be appropriate and based on the best available knowledge; changes of use should be necessary; appropriate methodologies should be used to assess the full impact of any proposals; change should be avoided where effects cannot be adequately assessed; impact should be mitigated, and any interventions kept to a minimum and sympathetic to the historic character of the building.
- **Working together:** sustainable management requires a co-ordinated effort.

BS 7913:1998 Guide to The principles of the conservation of historic buildings (HS/9)

2.51 The BS provides general background information on the principles of the conservation of historic buildings, when considering conservation policy, strategy and procedures. A foreword states that the principles enunciated neither conform precisely to any previous manifesto or charter, nor are they intended to be definitive or prescriptive; it is inevitable that conservation theory will continue to evolve, and the guide will become historic and be subject to review in due course.

2.52 Paragraph 1.1 states that the immediate and most obvious objective of building conservation is to secure the preservation of the nation's stock of buildings, and in particular its historic buildings and fine architecture, in the long term interest of society.

2.53 Definitions include:

- conservation: Action to secure the survival or preservation of buildings, cultural artefacts or any other thing of acknowledged value for the future.
- conversion: alteration, the object of which is a change of use of a building or artefact, from one use to another.
- intervention: Any action which has a physical effect on the fabric of a building or artefact.
- preservation: State of survival of a building or artefact, whether by historical accident, or through a combination of protection and active conservation.
- protection: provision of legal restraints or controls on the destruction or damaging of buildings or artefacts, natural features, systems sites or other things of acknowledged value, with a view to their survival or preservation for the future.
- rebuilding: remaking, on the basis of a recorded or reconstructed design, a building or part of a building or artefact which has been irretrievably damaged or destroyed.
- reconstruction: re-establishment of what occurred or what existed in the past, on the basis of documentary or physical evidence.
- repair: Work beyond the scope of regular maintenance to remedy defects, significant delay or damage caused deliberately or by accident, neglect, normal weathering or wear and tear, the object of which is to return the building or artefact to good order, without alteration or restoration.
- replication: making an exact copy or copies of a building or artefact.
- restoration: Alteration of a building ... which has decayed, been lost or damaged or is thought to have been inappropriately altered in the past, the objective of which is to make it conform again to its design or appearance at a previous date.
- reversibility: Concept of work to a building, part of a building or artefact being carried out in such a way that it can be reversed at some future time, without any significant damage having been done.

2.54 Paragraph 5.2: "Old buildings that have stood the test of time require judgement to be exercised when decisions are being made about their conservation. This should be based on an understanding of principles informed by experience and knowledge."

2.55 Paragraph 6.1 states that the conservation of buildings can be justified on cultural, economic and environmental grounds, usually in combination. Paragraph 6.2.1 identifies two general reasons for the preservation of a building on cultural grounds - historical and aesthetic.

2.56 Paragraph 6.2.2 states "An understanding of contemporary society as a basis for contemplating the future depends to a significant extent on knowledge of the past. Proper understanding and interpretation of history depends crucially on the evidence of primary sources, including original documents, artefacts and the results of archaeological investigation. Complete buildings and the remains of buildings incorporated within later structures are almost always of value as primary source material".

2.57 Paragraph 6.3.1 states that the conservation of a building can be of economic value either (a) directly, in that it has a function and thus represents a positive asset; or (b) indirectly, in that its character, quality, interest or beauty enhances the value of the immediate area in which it is set, or the wider area or country as a whole. It states that, apart from

SAMs, whose preservation, whether as complete or ruinous structures, can be justified on cultural grounds alone, the survival or preservation of a building ultimately depends on its continued use and its ability to earn its keep. Buildings of quality and in good order can also contribute to the quality of the environment and the economic health of the area and the country. Old buildings in good order and everyday use also create a sense of stability, continuity and confident well-being.

2.58 Paragraph 6.3.2 "Using the building stock" states that almost all buildings are capable of beneficial use, whether the use for which they were originally designed, an existing secondary use, or some new or alternative use. To survive and to be of economic value, they need to be used. Alteration should always be kept to a minimum and should, if possible, be reversible. With skill and understanding, alterations should not result in significant or unacceptable loss of cultural value. Paragraph 6.5, "Achieving a balance of objectives" states that there are many possible conflicts, and that it is desirable to identify and balance objectives in principle before attempting to resolve issues that can arise in practice.

2.59 Section 7 deals with "Conservation in practice". Paragraph 7.1.2, "Minimum intervention", states that a conservative approach of minimal intervention and disturbance to the fabric of an historic building, in which there is a presumption against restoration, is fundamental to good conservation. The destruction, alteration or renewal of parts of a building can be damaging, and should be carefully considered and properly justified.

Paragraph 7.3.2.1 states "A presumption against restoration is a hallmark of the British approach to building conservation. Restoration can diminish:

- a. the authenticity and thus the historic value of a buildings; and
- b. the aesthetic value of a building, especially one which depends for its interest more on its narrative or picturesque qualities and on the patina of age than on its formal qualities of design".

2.60 Paragraph 7.4.1 acknowledges that, to enable a building to continue in use and to earn its keep, it is sometimes necessary to alter it. However, there are some buildings and settings in which no alterations or new work should be acceptable; care should always be taken to ensure that any work is genuinely necessary, and that the end result could not be achieved in an easier or less damaging way. Criteria for alterations in paragraph 7.4.3 include:

- sufficient survey, investigation, recording and analysis in advance of design work to ensure that the risks of accidental damage, destruction, missed opportunities or unexpected discoveries are minimised;
- avoiding disturbance of significant existing fabric; the level of intervention should be at the lowest appropriate level, and should be capable of being substantiated;
- some buildings should not be altered at all, except in the most exceptional circumstances;
- the removal of earlier work that detracts from the building's quality, or the restoration of the layout or missing parts of a building can sometimes be justified;
- new work should always be of appropriate quality, and should contribute to the architectural integrity of the building;
- consideration should always be given to the desirability of carrying out alterations, so that they can be reversed quite easily, particularly, for example, services where their life is likely to be short, compared with that of the building as a whole.

International and other policy and guidance

The Venice Charter 1964 (HS/3)

2.61 This Charter recognises the responsibility to safeguard historic monuments for future generations as a common heritage, describing it as “essential that the principles guiding the preservation and restoration of ancient buildings should be agreed and be laid down on an international basis with each country being responsible for applying the plan within the framework of its own culture and traditions”.

2.62 Articles of the Charter referred to by parties include:

- Article 1: The concept of an historic monument embraces not only the single architectural work but also the urban or rural setting in which is found the evidence of a particular civilisation, a significant development or an historical event.
- Article 3: The intention in conserving and restoring monuments is to safeguard them no less as works of art than as historical evidence.
- Article 4: It is essential to the conservation of monuments that they be maintained on a permanent basis.
- Article 5: The conservation of monuments is always facilitated by making use of them for some socially useful purpose. Such use is therefore desirable, but must not change the layout or decoration of the building. It is within these limits only that modifications demanded by a change of function should be envisaged and may be permitted.
- Article 7: A monument is inseparable from the history to which it bears witness and from the setting in which it occurs.
- Article 9 The aim of restoration is to preserve and reveal the aesthetic and historic value of the monument and is based upon respect for original material and authentic documents. It must stop at where conjecture begins, and any extra work which is indispensable must be distinct from the architectural composition and must bear a contemporary stamp. Restoration must be preceded and followed by an archaeological and historical study of the monument.
- Article 11: The valid contributions of all periods to the buildings of a monument must be respected, since unity of style is not the aim of a restoration. When a building includes the superimposed works of different periods, the revealing of the underlying state can only be justified in exceptional circumstances, and when what is removed is of little interest and the material which is brought to light is of great historical, archaeological or aesthetic value, and its state of preservation good enough to justify the action.
- Article 12: Replacements of missing parts must integrate harmoniously, but be distinguishable from the original.
- Article 13: Additions cannot be allowed except in so far as they do not detract from the interesting parts of the building.
- Article 14: The sites of monuments must be the object of special care in order to safeguard their integrity and ensure that they are cleared and presented in a seemly manner.
- Article 15: Ruins must be maintained, and measures necessary for the permanent conservation and protection of architectural features and of objects discovered must

be taken. Furthermore, every means must be taken to facilitate the understanding of the monument and to reveal it without distorting its meaning.

- Article 20.1: Reconstruction is appropriate only where a place is incomplete through damage or alteration, and only where there is sufficient evidence to reproduce an earlier state of the fabric. In rare cases, reconstruction may also be appropriate as part of a use, or proactive that retains the cultural significance of a place.
- Article 25: The cultural significance of many places is not readily apparent, and should be explained by interpretation.
- Article 26.1: Work on a place must be preceded by studies to understand the place, which should include analysis of physical, documentary and other evidence, drawing on appropriate knowledge, skills and disciplines.

The Valetta Convention (1992)(HS/7)

2.63 The UK Government signed the European Convention on the Protection of the Archaeological Heritage (Revised) - The Valetta Convention (HS/7) in September 2000 and it came into effect in the UK in March 2001.

2.64 Articles to which particular attention was drawn include:

- Article 1, which states that the aim of the Convention is to protect the archaeological heritage as a source of the European collective memory and as an instrument for historical and scientific study.
- Articles 2-4, which require the signatories to take measures for the identification and protection of the archaeological heritage, including for its conservation and preservation, preferably *in situ*.
- Article 5(i), which seeks to reconcile and combine the requirements of archaeology and development plans.

The Burra Charter (1999) (HS/4)

2.65 This document, the most recent version of the original Charter adopted in 1979, provides guidance for the conservation and management of places of cultural significance. In summary, it advocates a cautious approach to change: do as much as necessary to care for the place and to make it useable, but otherwise change it as little as possible so that its cultural significance is retained.

2.66 Article 1 sets out, *inter alia*, the following definitions:

- Cultural significance (which may change as a result of the continuing history of the place) means aesthetic, historic, scientific, social or spiritual value for past, present or future generations.
- Conservation means all the processes of looking after a place so as to retain its cultural significance.
- Preservation means maintaining the fabric of a place in its existing state and retarding deterioration.
- Restoration means returning the existing fabric of a place to a known earlier state by removing accretions or by reassembling existing components without the introduction of new material.

- Reconstruction means returning a place to a known earlier state and is distinguished from restoration by the introduction of a new material into the fabric.
- Adaptation means modifying a place to suit the existing use or a proposed use.
- Compatible use means a use which respects the cultural significance of a place. Such a use involves no, or minimal impact on cultural significance.

2.67 Within Article 2, it states:

- Places of cultural significance should be conserved (2.1).
- The aim of conservation is to retain the cultural significance of a place (2.2).
- Conservation is an integral part of good management of places of cultural significance (2.3).
- Places of cultural significance should be safeguarded and not put at risk or left in a vulnerable state (2.4).

2.68 The following statements are also made:

- Within Article 3: conservation requires a cautious approach, changing as much as necessary, but as little as possible; and that changers should not distort the evidence it provides.
- Within Article 4.1: Conservation should make use of all the knowledge, skills and disciplines which can contribute to the study and care of the place.
- Within Article 5: conservation should identify and take into consideration all aspects of cultural and national significance without unwarranted emphasis on any one value at the expense of others.
- Within Article 6: the cultural significance of a place must first be understood before development of a policy for its conservation.
- Within Article 7: where the use of a place is of cultural significance, it should be retained. The policy should identify a use or combination of uses that retain the cultural significance.
- Article 9.1: The physical location of a place is part of its cultural significance. A building work or other component of a place should remain in its historical location. Relocation is generally unacceptable unless this is the sole practical means of ensuring its survival
- Within Article 10: contents, fixtures and objects that contribute to the cultural significance of a place should be retained *in situ*. Their removal is unacceptable unless it is the sole means of ensuring their security and preservation.
- Article 13: Co-existence of cultural values should be recognised, respected and encouraged, especially in cases where they conflict.
- Within Article 14: conservation may include the processes of retention or reintroduction of a use.
- Within Article 15: the amount of change should be guided by the cultural significance of a place and its appropriate interpretation; changes that reduce cultural significance should be reversible; the contributions of all aspects of cultural significance should be respected; emphasising or interpreting one period or aspect at the expense of another can only be justified when what is left out, removed or diminished is of slight cultural significance and that which is emphasises or interprets is of much greater cultural significance.

- Within Article 17: preservation protects fabric without obscuring the evidence of its construction and use.
- Article 18 states that restoration and reconstruction should reveal culturally significant aspects of the place.
- Article 19 states that restoration is appropriate only if there is sufficient evidence of an earlier state of the fabric.
- Article 20.1: Reconstruction is appropriate only where a place is incomplete through damage or alteration, and only where there is sufficient evidence to reproduce an earlier state of the fabric. In rare cases, reconstruction may also be appropriate as part of a use or proactive that retains the cultural significance of a place.
- Within Article 21: Adaptation must be limited to that which is essential to a use for the place determined in accordance with Articles 6 and 7. Any adaptation should have a minimal impact on its cultural significance.
- Article 25 notes that the cultural significance of many places is not readily apparent, and should be explained by interpretation.
- Article 26.1: Work on a place must be preceded by studies to understand the place which should include analysis of physical, documentary and other evidence, drawing on appropriate knowledge, skills and disciplines.
- Within Article 27: The impact of proposed changes on the cultural significance of a place should be analysed with reference to the statement of significance and the policy for managing the place. It may be necessary to modify changes following analysis to better retain cultural significance.
- Articles 30, 31 and 32 emphasise the process of administering conservation work, its direction, supervision and implementation, documentation and records.

The Stirling Charter 2000 (HS/15)

2.69 This document, which sets out broad principles for the conservation of the built heritage in Scotland, has been informed by, and builds on, earlier international conservation charters. The Introduction states, *inter alia*, that the built heritage has a range of values to society. In addition to its own intrinsic worth, it is vital to an understanding of our archaeology, history and architecture; provides a sense of place and national identity; and contributes to the fascinating diversity of townscape, landscape, ecology and culture of Scotland. It embraces monuments, buildings and sites, the fabric of which is too important to the nation to warrant any change other than the very best intervention necessary for its preservation. These also include properties which remain in use the fabric of which (but not the architectural quality or character) has to be adaptable to appropriate change in order to secure continued use. Key Terms in the Annex are defined largely by reference to BS7913:1998.

2.70 The following principles are stated:

- Article 1: Actions taken in respect of Scotland's built heritage should secure its conservation for the benefit and enjoyment of present and future generations.
- Article 2: There should be a general presumption in favour of preservation: no element of the built heritage should be lost without adequate and careful consideration of its significance and of all means available to conserve it.
- Article 3: Scotland's built heritage should be managed in a sustainable way, recognising that it is an irreplaceable resource.

- Article 4: Appropriate measures, which do not compromise cultural significance, should be taken, including through access, research, information and education, to assist all people to enjoy, appreciate, learn from and understand Scotland's built heritage.
- Article 5: Conservation of Scotland's built heritage should:
 - (5.1) be based on sound knowledge and understanding of the particular site, building, monument or landscape and its wide context;
 - (5.2) be founded on full awareness and considerations of its cultural significance and all phases of its development;
 - (5.3) be carried out in accordance with a conservation plan, which brings together all the information and research necessary to guide the proposed action;
 - ❖ ensure that what is to be conserved is properly recorded before, during and after work;
 - ❖ make provision for recording where continued preservation is no longer possible; or where loss is taking place through change or ongoing decay, and ensure that all records are retained in readily accessible archives.
 - (5.6) incur only the minimum degree of intervention considered appropriate for the type of site, building, monument or landscape;
 - (5.7) use appropriate materials, skills and methods of working;
 - (5.8) have regard to retaining, or where appropriate enhancing, the setting of the site, monument building or landscape;
 - (5.9) ensure that where change is proposed, it is appropriate, carefully considered, authoritatively based, properly planned and executed, and (if appropriate) reversible;
 - (5.10) include effective arrangements for monitoring the condition and safety of the site and for routine maintenance and good housekeeping.
- Article 6: In relation to their respective roles, the relevant bodies and individuals should ensure that, inter alia:
 - ❖ the statutory protection afforded to the built heritage is kept under review;
 - ❖ full use is made of the statutory provision available to protect the built heritage;
 - ❖ the built heritage is afforded due respect in all their activities;
 - ❖ the highest possible standards are set for, and applied to conservation practice;
 - ❖ appropriate and effective systems are established for monitoring and recording the condition of the built heritage.

Technical Advice Note 8: The Historic Scotland Guide to International Conservation Charters (TAN 8) (HS/5)

2.71 This document brings together and analyses over 70 national and international statements of conservation principles with a view to providing the basis for a better informed approach to building conservation in Scotland and elsewhere. It compares terminology as defined in different charters.

The Conservation of Architectural Ancient Monuments in Scotland – Guidance on Principles (HS/12)

2.72 This booklet offers guidance for owners of architectural monuments and those working for them, on the principles by which works should be planned and carried out. Sections referred to at the inquiry include:

- 2.1 One of the chief aims of ancient monuments legislation is to ensure that the most important surviving evidence for our built heritage is preserved as far as possible in the state in which it has come down to us, and is passed on to future generations without further change or loss of evidence.
- 2.2 Since the built heritage is one of the main channels through which we can understand the lives, aspirations and achievements of our ancestors, it is essential that as wide a range of types and ages of monuments as possible is preserved.
- 2.3 Monuments are more than just the sum of their constituent parts. Many have important historical, cultural or emotional associations that give them particular significance in the life of the nation or of the local community within which they are set.
- 2.5 Since all monuments are unique they are all irreplaceable. However, because they are open to the elements, and are subject to the natural processes of decay of their materials, without continuing interventions they would have a finite life. There is a balance to be struck between achieving the continued life of a monument and of carrying out works that are so invasive that they modify the monument's character, and detract from its value as evidence for the age that produced it.
- 2.6 All conservation works should aim to be reversible as is consistent with ensuring the monument's continued stability.
- 2.7 Before work starts, an assessment should be made of its historical and cultural significance and of its structural composition.
- 2.8 All phases of a monument's structural history deserve respect and conservation.
- 2.9 Where more than minimal works are contemplated, a Conservation Plan should be prepared, which will provide a framework for considering the particular significance of the monument, its range of needs, the means by which these needs are to be met, and the ways in which the monument will be managed.
- 2.13 Although at the great majority of scheduled monuments all forms of restoration as opposed to conservation should be avoided, part of the process of achieving an understanding of a monument may involve a mental process of reconstructing the parts that have been lost. But it must be accepted that such reconstruction usually represents no more than a balance of possibilities based on our current state of understanding, and in most cases there can be no justification for imposing these ideas on the monuments themselves
- 2.14 It is accepted that for certain monuments, restoration for active use may be the most viable way of ensuring their continued existence. These might include some tower houses ...that are sufficiently complete to be considered as candidates for renewed occupation. In those cases, it is essential that the surviving historic fabric and the existing inter-relationships between all the constituent parts are preserved with as little change as possible. It is also important that any additions that have to be made are firmly based on the structural and archaeological evidence, and that those additions are designed to be technically and aesthetically compatible with the historic

fabric. All of this can be achieved only if the full cultural significance of the monument has first been properly assessed.

- 2.15 Monuments do not exist in isolation, and consideration must be given to the impact that any works might have on the wider archaeological, landscape or ecological context.

2.73 Sections 3-13 deal with particular types of construction or work. Section 5 deals with Treatment of Mortar:

- 5.1 refers to the use of lime mortar as the historical norm.
- 5.2 recognises that Portland cement has been used since the mid 19th century, although it is now considered inappropriate for most conservation work.
- 5.5 notes that a new mortar mix should be compatible with the original mortar of that part of the monument, in its composition, texture and appearance, whilst accepting that the new work should nevertheless be distinguishable to expert scrutiny.

2.74 In section 6 (The treatment of Harling and wall renders):

- 6.1 notes that at most Scottish medieval and early modern buildings, the masonry was originally covered with a protective lime coating, generally referred to as harling.
- 6.2 states that the reinstatement of lime wall finishes is generally not considered appropriate at scheduled monuments for a number of reasons: obscuration of the invaluable evidence for the history and development of the building; loss of evidence for any original finishes that may have survived; lack of knowledge and understanding of the manner in which harling and lime wash might have been applied and finished.

2.75 Section 8 deals with the treatment of timberwork:

- 8.4 states that where timber survives it is important to ensure that, as far as possible, it is preserved in place and with as little modification as possible. Any operations involving work on timber should be preceded by the preparation of detailed drawn and photographic records, and careful thought should be given to which techniques of analysis might be most appropriate for achieving the fullest understanding of the timberwork and its structural context.
- 8.11 states that timbers should only be removed from their designed location if there is no alternative.... In such cases detailed records should be made of them before they are removed, and every effort made to retain as much of the original timber as possible, within a sheltered environment at the monument.
- 8.13 states that internal partitions within buildings were often of timber, particularly at the upper levels where room sizes might be smaller and where structural weight was a significant consideration....Where fragments of partitions remain in place, however, all efforts should be made to retain them.

2.76 In section 11 (The treatment of historic painted decoration):

- 11.2 notes that where any in-situ evidence for painting survives whether on plaster, timber, masonry or any other material, every effort should be made to preserve it as it has come down to us.

- 11.5 recommends that in the majority of cases, any work on painted decoration should be aimed at conserving what is there, with no attempt to restore what has been lost.
- 11.6 notes that the temptation to re-paint carved or moulded work should be resisted.

2.77 Section 14 deals with below-ground archaeology:

- Within 14.3 ...archaeological excavation should only be undertaken after a full research programme has been prepared.
- 14.5 states that once archaeological investigations have been agreed as part of a programme of works aimed at the conservation of the monument, it is essential that they are conducted under properly qualified archaeological supervision.
- 14.6 states that where excavation is to be undertaken, the work must be carried out to the highest standards....

2.78 Section 16 deals with the Restoration of Monuments for re-use:

- 16.1 states: Although it is usually expected that monuments will be conserved in the state in which they have come down to us, there are some cases where the best way of preserving a monument may be its restoration for re-use.
- 16.2 states: In general, restoration rather than conservation would not be considered as acceptable for scheduled monuments that are regarded as the most outstanding examples of their kind, or as being particularly representative of their type. There are many monuments that are so outstandingly important for the evidence they embody that nothing should be done which might compromise the integrity of that evidence. However carefully it is planned and carried out, restoration inevitably blurs the distinction between what is authentic and of primary documentary value, and what is modern replication. Beyond this, the provision of modern services to restored monuments generally involves significant irreversible archaeological and structural disturbance.
- 16.4 states that before any decision is taken on whether a monument should or should not be restored, it is essential that a careful assessment of its cultural significance is carried out professionally.
- 16.5 notes that when restoration is being considered, it is likely to be more acceptable when the intended use is similar or closely related to the monument's original use, so that the design and layout are suited to the new use.
- 16.11 notes that when a monument is to be restored the presumption is that all surviving fabric will be retained unchanged.
- 16.16 notes that all new fixings should be into joints rather than into the masonry itself, with no damage being caused to the stones on each side of the joints.