

Appeal Decision Notice

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Decision by Lorna McCallum, a Reporter appointed by the Scottish Ministers

- Listed building consent appeal reference: LBA-190-2003
- Site address: Highhouse Industrial Estate, Barony Road, Auchinleck, East Ayrshire, KA18 2BL.
- Appeal by Mr Angus Hamilton, Highhouse Estates Limited against the decision by East Ayrshire Council
- Application for listed building consent 15/0338/LB dated 5 May 2015 refused by notice dated 5 November 2015
- The works proposed: Demolition of the former Highhouse Colliery engine house and associated head frame and removal of engine and winding gear
- Date of site visit by Reporter: 2 March 2016

Date of appeal decision: 11 April 2016

Decision

I dismiss the appeal and refuse listed building consent.

Reasoning

1. The determining issue in this appeal is whether the demolition of the Highhouse Colliery engine house and head frame can be justified having special regard to the desirability of preserving this listed building, its setting or any features of special architectural or historic interest which it may possess.

Policy Context

2. I have taken account of the requirements of Scottish Historic Environment Policy (SHEP). There is a clear presumption against demolition unless it can be demonstrated that every effort has been made to retain a listed building. Paragraph 3.50 of SHEP sets out the following criteria to assess the circumstances where demolition of a listed building may be acceptable;

(a) the building is not of special interest, or

(b) the building is incapable of repair, or

(c) the demolition of the building is essential in delivering significant benefits to economic growth or the wider community, or

(d) the repair of the building is not economically viable and that it has been marketed at a price reflecting its location and condition to potential restoring purchasers for a reasonable period.

3. Policy ENV 6 of the Ayrshire Joint Structure Plan and Policies ENV 1, ENV 4 and ENV 5 of the East Ayrshire Local Plan seek to protect and preserve listed buildings. In particular Policy ENV 5 indicates that proposals for demolition will only be supported where it has been demonstrated beyond reasonable doubt that every effort has been made to find practical ways to keep the building including evidence that the building has been actively marketed and that it is incapable of repair and reuse through the submission and verification of a thorough structural condition report.

4. Scottish Planning Policy (SPP) (2014) contains a similar presumption against the demolition of listed buildings. Managing Change in the Historic Environment guidance note on demolition (2010) also states that applicants must show that they have made all reasonable efforts to retain listed buildings in accordance with the requirements of SHEP. Applicants are required to set out clearly the practical steps that have been taken to keep the building and provide clear evidence why this has failed.

Description and special interest

5. The B listed building comprises the former colliery engine house; a brick built single storey building with a shallow sloping metal roof, the engine contained within and the associated metal head frame. Although largely intact, the engine house and associated head frame do not appear to have been significantly maintained for some time. The window and door openings of the building have been bricked up to deter unauthorised access and the head frame is in need of repainting and showing signs of corrosion. No access was available to the interior of the building to view the engine and winding gear although the submissions indicate that these remain in situ.

6. There is no dispute that the listed building is of special interest, however the appellant considers that the listed status is severely compromised by alterations including the bricking up of the doors and windows by previous owners and notes that the head frame is a 1960's replacement of the original timber structure. I note that the listing schedule states that the building was listed in 1992 after the metal head frame was in place and indicates that the roof was probably a replacement.

7. The schedule also contains a section titled "Statement of Special Interest" which indicates that the steam winding engine is probably one of only two in Scotland that remain in situ. The head frame is probably the last traditional one built in Scotland. In their consultation response Historic Environment Scotland (HES) has not advised that the building is no longer worthy of listed status or conservation. The Architectural Heritage Society of Scotland (AHSS) consider that the head frame, engine house and contents are all important relics of the deep mining and engineering industries and should be retained as an important part of the built heritage of the area. I note that, despite the bricking up of the openings of the building, the overall character of the building is relatively unharmed and although corroded in places the head frame is intact. I find no evidence to demonstrate that the building has been altered or damaged to an extent that would compromise its listed status or special interest.

8. Taking these matters into account I am therefore of the view that the listed building is of special interest and remains worthy of preservation. I consider that requirement (a) of SHEP is not met.

Capability of Repair

9. I note that requirement (b) in SHEP relates to the building being incapable of repair. I consider this to be different from the repair of the building being economically viable to the present owner, the latter being considered separately in paragraph (10) below. In terms of requirement (b) the Managing Change in the Historic Environment Guidance Note on Demolition indicates that consent may be granted where it can be shown that a building's condition is beyond repair. It indicates that, in such cases, a clear understanding of a building's condition will always be required and that this should take the form of a structural survey. The survey should be prepared by an appropriate professional and include options for repair. In this case no such structural survey was submitted to support the application for listed building consent. The information submitted by the appellant indicates that the building, although showing signs of deterioration, is not unsound. From my observations on site I found the building and head frame to appear reasonably intact.

10. I therefore conclude that it has not been established that the listed building is incapable of repair. On this basis requirement (b) is not met.

Economic Benefit

11. The appellant considers that the listed building attracts anti-social behaviour and that it has an adverse impact on the surrounding industrial estate. He indicates that the building and head frame detract from an otherwise well maintained estate and the businesses located there.

12. On my site visit I noted the signs of anti-social behaviour at the appeal site, some graffiti on the brickwork and on visible parts of the roof and discolouration due to the burning of materials at the site in close proximity to the building. However, I am not convinced that demolition of the building would necessarily remove that problem from the industrial estate. The police indicate that the demolition would remove shelter for people attracted to the area and that action should be taken to secure the building and reduce the opportunities for it to continue as a meeting place.

13. Demolition is a last resort and I consider that there are alternative options that could be pursued to address anti-social behaviour and to deter access to the building. The appellant has indicated that he has installed CCTV; however, I am not convinced that alternatives to demolition have been fully explored. Alternative measures to prevent access to the building could include the installation of security fencing around the appeal site. Consideration may also be given to means to prevent access to the head frame and roof of the building and works to make safe the roof of the building. I do not consider the occurrence of anti-social behaviour justifies the demolition of the listed building. Such behaviour might still occur without the presence of the building.

14. The building is located in a corner towards the rear of the industrial estate; it is surrounded on two sides by sloping vegetated land and is not viewed from the entire industrial estate. An area of open grassland lies opposite with industrial/commercial units

to the north and north west of the building, a number of which are within former colliery buildings that have been restored. I find that the building and head frame are not unattractive; they add some interest to the industrial estate, particularly combined with the restored former colliery buildings. I do not consider that the setting of the industrial estate would benefit from the removal of the listed building.

15. I therefore do not consider that the demolition of the building is essential to deliver significant benefits to economic growth of this industrial location or the wider community. I therefore find that requirement (c) is not met.

Viability and Marketing

16. The appellant has stated that the repair of the listed building is not economically viable and HES confirmed that the information provided was sufficient to demonstrate this. The Managing Change in the Historic Environment guidance note on demolition indicates that where the principal justification for demolition is that the costs of repair would not be viable, full supporting evidence is required. Where the assessment shows a deficit, it will normally be a requirement to show that grant aid is not able to meet the shortfall.

17. I note that the appellant has made efforts to investigate alternative uses and sources of funding and that costings have been submitted for restoration works. The appellant has indicated that he is happy to donate the remains of the machinery within the engine house to any bona fide body that would like to preserve it off site subject to agreement on sharing the cost and method of removal.

18. The attempts by the appellant to gain the interest of other parties are noted. I am aware that this included making contact with the Barony Trust, the National Museum of Mining, Ancient and Historical Monuments of Scotland (RCAHMS) and East Ayrshire Council but that none were able to take on the restoration of the building. I note that the information submitted indicates that an enquiries board was erected at the estate and that an advert was placed in the Auchinleck newsletter requesting that people interested in restoring the building get in touch but that no enquiries have been received. The appellant believes that all relevant marketing channels have been exhausted given the specific nature of the building.

19. The application for listed building consent did not, however, include details that fully explored sources of and potential for grant funding or alternative means of restoring the listed building. The marketing of the building has been very localised and has not included normal commercial marketing of the property via an estate agent, national publications or websites. I would expect that reasonable efforts to actively market the building would include such methods and be demonstrated to have taken place over a fair period of time.

20. I appreciate that repair and retention may involve considerable costs and that there appears to be no obvious income generating use for the building to offset such costs in this case. I also note SHEP recognises that conventional marketing is difficult when dealing with buildings or structures with cultural value but only limited scope for reuse. However, the policy indicates that it is unlikely that consent for the demolition of an uninhabitable structure would be granted purely on the basis of a deficit in economic viability and that marketing to repairing purchasers is still required.

21. I consider that there is a lack of evidence to show that the listed building has been rigorously and actively marketed at a reasonable price and for a period reflecting its location and condition as required by SHEP and development plan policy ENV 5. I therefore find that it has not been clearly demonstrated that every effort has been made to keep the listed building and I am not satisfied that the proposed demolition meets requirement (d).

Conclusion

22. It has not been established that the listed building is incapable of physical repair. I accept there are likely to be challenges in finding means of restoring the building, however, I do not consider that it has been clearly demonstrated that the proposed demolition complies with the criteria in paragraph 3.50 of SHEP. There is also conflict with the terms of SPP and with the development plan, in particular Local Plan Policy ENV 5.

23. To conclude, I find that in having special regard to desirability of preserving this listed building the proposed demolition is not sufficiently justified.

Lorna McCallum

Reporter