

**Appendix D - Official Report of the proceedings of the Petitions Committee meeting,  
17<sup>th</sup> January 2007**

### Scheduled and Listed Buildings (Management) (PE1013)

**The Convener:** Our next petition is PE1013, by Niall Campbell, who calls on the Scottish Parliament to urge the Scottish Executive to review the arrangements for managing scheduled and listed buildings, such as Rowallan old castle, to ensure that when owners have made suitable and sensitive plans for restoring such buildings in a way that will allow public access, such developments are encouraged to proceed.

Niall Campbell will make a brief statement to the committee in support of his petition. He is supported by James Simpson. Thank you for coming.

**Niall Campbell:** First, I apologise on behalf of Mr John Campbell, who was meant to be here but

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had to call off because the meeting was rescheduled.

Good morning, ladies and gentlemen. My name is Niall Campbell and I am the owner of Rowallan Castle and the surrounding estate in East Ayrshire, near Kilmarnock. I am 57 and have nearly 40 years' experience of working in the building business. I am a time-served mason and a civil engineer. I am a freeman of the city of Glasgow and a member of the Merchants House there.

In my time, I have worked on stone at Glasgow cathedral, Paisley abbey and Culzean Castle—I restored the home farm there, which is now a premier visitor attraction. I have received a Civic Trust award for the Byres Road arcade in Glasgow and a Saltire award for housing in Straiton. I restored the rotundas on the Clyde, for which we received an architectural merit award. Our family built the art school in Edinburgh and the Andrew Melville hall by Sir James Stirling in St Andrews. I have worked on many other important buildings throughout the years.

I purchased the Rowallan estate and the old and new castles in 1990 and set about restoring the grounds and buildings, which had been seriously neglected for many years. After two public inquiries at which Historic Scotland vigorously opposed our plans, we have now reinstated to its former glory the new castle that Sir Robert Lorimer designed in 1902; it looks magnificent. We sought and gained listed building consent and planning permission to add a hotel and leisure complex at Rowallan and we are building Colin Montgomerie's first UK golf course in the grounds. The old castle sits in the middle of the estate. It is picturesque and is the jewel in the crown of Rowallan's 600 acres.

When I was negotiating to purchase the estate, which included the old castle, I approached Historic Scotland through its then director Mr MacKenzie, with whom I had dealt previously and who knew my technical background, to ascertain whether we could use and restore the castle. At that time, Historic Scotland appeared to be delighted and we agreed in writing the basic format of how the building should come out of guardianship and be repaired and conserved—the letters have been exhibited here. The building was not scheduled at that time.

After Mr MacKenzie retired, there was a sea change in the view of his successors. The old castle was scheduled in 1994 and by 1997 there was a clear view from Historic Scotland that there should be no restoration and use other than by the agency itself. I was told that there would be no point in submitting detailed plans until a decision was made on future use. Nothing much happened, so in an attempt to unlock the bureaucratic

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quagmire I applied for change of use from the council, which was unanimously approved. However, because the building was scheduled, the application was referred to the Scottish ministers for determination. In reality, that meant that the application was referred to Historic Scotland, because the castle is A-listed. I simultaneously applied for scheduled monument

consent to carry out works on the old castle and the whole matter went to a full second public inquiry. Historic Scotland rallied a determined counter-challenge and although I had been told not to go into too much detail until a decision on use was determined, that was exactly the area in which we were found wanting. The reporter said that there was insufficient detail on how the castle might be used to enable her to reach a final view.

As a consequence, my new team—Simpson and Brown—and I have carried out a comprehensive review and have delivered to Historic Scotland a full conservation plan, detailed drawings and a second application for scheduled monument consent under the Ancient Monuments and Archaeological Areas Act 1979. The documents have been lodged with Historic Scotland since August, but there was no response other than the comment that no determination would be forthcoming in the near future. However, the application has now come to the agency's notice and it has agreed to come and see us on 7 February. Unfortunately, the 1979 act imposes no time limits on planning applications, as is the case in ordinary applications.

I want to be able to use the building as accommodation, as part of the overall scheme, for the benefit of the entire project at Rowallan. It would be an invaluable addition to the attractiveness and viability of the master plan. Moreover, at no cost to the taxpayer, there would be proper managed public access for the first time in 57 years—the time during which the matter has been in Historic Scotland's hands.

Since I gained planning permission and listed building consent for development of the golf course, hotel and other accommodation and for the renovation of the access road, Historic Scotland has suddenly announced that it would open the old castle to the public, despite there being no facilities whatever and the building not being in a safe condition. If anyone were injured, I would be at risk, because the castle is my property.

Historic Scotland appears to be acting as though it were blind to my wishes and those of the local authority, the public and everyone who would derive enjoyment from the development. The agency has taken no cognisance of the wishes of the local community, which were voiced through the community council, or of the local authority,

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which has consistently backed our proposals. We are carrying all the commercial risk and I am offering not only to make beneficial use of the building but to bring it into useable condition, under the supervision of Historic Scotland, while conserving and respecting its enormously important historical heritage. It is essential that I and the agency work together: we both have skills, but I have the resources that have obviously been lacking in the past 60 years or so.

The potential for tourism and employment at Rowallan is enormous. I plan to create at least 175 full-time jobs as the project develops. I am well on the way to achieving that and have signed contracts for management of the hotel and the golf and leisure facilities.

I ask members to consider my petition and the associated papers favourably and to enjoin the Executive to bring about a culture change in Historic Scotland, so that distinguished buildings that could be used beneficially may make a contribution to the vibrant contemporary Scottish economy. Thank you for listening to me.

**The Convener:** Thank you, Mr Campbell. I invite questions from members.

11:30

**John Scott:** Good morning and welcome. You spoke of a change of heart by Historic Scotland in 1997. What caused that change of heart?

**Niall Campbell:** There was simply a change of personnel.

**John Scott:** Is it accepted practice that a change of personnel can lead to a change of policy or a change to undertakings previously given?

**Niall Campbell:** It appears to be. We have exhibited letters showing that we had reached an agreement with Historic Scotland on a certain way forward. However, things gradually changed. Over a period of a few years, as other people became more interested in what we were doing, and after we had gained planning permission—which was the main thing—and had renovated the access, Historic Scotland suddenly wanted to retain guardianship of the castle.

**John Scott:** You spoke about being misled by Historic Scotland at the second public inquiry over the details required in your planning application. Would you care to speculate over whether that was deliberate?

**Niall Campbell:** Well, it was fairly deliberate—there is no question about that. Historic Scotland had sent us a full and detailed list of ways in which we could convert the building and I had asked about what we could do to bring it into our

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guardianship. Work would be done while the building was still in the guardianship of Historic Scotland, but the guardianship would then be passed on. We would agree to a certain timescale on offering public access—which is obviously what we want to do with the whole estate. However, Historic Scotland then seemed to take a completely different view. It wanted to open the castle itself—we can see no other reason for the change of mind.

**Jackie Baillie:** I was fascinated to hear about this proposal and I am quite positive about it. It is unique in having support at all levels—including support from the local community and the local council. There will clearly be an economic benefit—and I say that as someone who represents an area encompassing Loch Lomond and a golf course that might perhaps rival yours.

I am also fascinated by your relationship with Historic Scotland. In the very helpful precognition from Mr Simpson, you raise two specific points that illustrate the problems that you have encountered. I will also consider those points in a wider context. The first point was about the guardianship of the monument and the opportunity for ministers to revoke guardianship so that the future development of the castle would lie in your hands. Have you made formal approaches directly to the minister concerned, rather than simply going through Historic Scotland?

**Niall Campbell:** Some time ago, I met Des Browne MP and the then Scottish Office minister, Calum MacDonald MP, but of course the matter was immediately referred to Historic Scotland, so we were going round in circles. Mr MacDonald is no longer there, but we have been entirely supported by our MSP, Margaret Jamieson, and by Des Browne.

Things have become bogged down and—I hate to say it—slightly personal. We cannot see another reason for Historic Scotland's position. We believe that we have offered everything we can to take the building out of the control of Historic Scotland but at the same time safeguard it. It is a wonderful and unique building and we feel that we have the energy to convert it. We have done massive amounts of research, through James Simpson, and have probably written the definitive description of the building. We have considered every stone.

The roof of the building is new and is almost a pastiche, which is a great shame. Much of what has been done in the building is wrong. To be fair to Historic Scotland, I know that its work practices have changed, but even recently things have not been quite right. James Simpson will probably mention that.

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It is disappointing that we cannot bring the building into our guardianship. Historic Scotland expressed opposition to our plans at two local inquiries at which the council and the whole

community expressed their support. Historic Scotland was the only one against the plans, and it has not been able to come on board. However, now that we have done a lot of work, it has been obvious that Historic Scotland is trying to jump on the bandwagon. It made an attempt to open the castle last year—I think that the castle opened half a dozen times.

**Jackie Baillie:** If guardianship were transferred back to you as the owners, what kind of public access would you ensure?

**Niall Campbell:** We have stated that we have opened the castle no more than half a dozen times in the past few years, but we would guarantee a minimum of 25 times. We want to bring it into full use for the local community. There is a massive amount of work that we could do. We could use it as a gallery or for local weddings.

**Jackie Baillie:** I see that you also raise the issue of scheduled monument consent. I was astonished to find out that you could go through all this trouble to make an application but there is no timescale for Historic Scotland to respond to you. Have I picked that up correctly?

**Niall Campbell:** Yes.

**Jackie Baillie:** That is incredible. Has Historic Scotland given you any indication that it is likely to respond soon?

**Niall Campbell:** Since this petition has come to the fore, we have heard that Historic Scotland will respond on 7 February. James Simpson told me that this morning.

**Jackie Baillie:** Excellent.

**The Convener:** Before I bring him in, I apologise to Mr Simpson. We appear to have got your name wrong on the name-plate in front of you. If you would like to make your contribution now, we will be happy to hear it.

**James Simpson:** The wrong son of Zebedee, convener.

I would like to refer to the two Historic Environment Advisory Council for Scotland reports, while declaring an interest that I am a member of HEACS. I was not a member of the council last year when one of its reports suggested that there should be a review of the legislation and another report suggested some future arrangements for properties in care. Both those reports were published and sent to the minister last year.

On guardianship, HEACS made the point that the estate is a fairly inconsistent collection of

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buildings that have come to the state for various reasons at various times in history. It is natural and appropriate that many such estates—Melrose abbey, Tantallon Castle, the great ruins and standing stones and so on—should be maintained by the state. However, there is no particular reason why some of them, such as Rowallan Castle, which is a typical example, are in the state's care. It was serendipitous that that particular building was taken into care in the 1950s and there is no reason why it should be maintained by the state at the taxpayer's expense.

HEACS suggested that there should be a review and a formal acquisitions policy. Indeed, HEACS suggested that there might be a separate national collection body for the national monuments of Scotland or something like that for handling the properties in care portfolio, within or outwith Historic Scotland. It also suggested that there should be a disposals policy and that those properties that are in care that do not have to be, and that are capable of living and working to earn their keep or be enjoyed in other ways, should not be maintained at the state's expense in limbo, particularly without a high degree of public access. Rowallan Castle seems to me to be a typical example of such a property.

On the lack of any timetable for a response to applications for scheduled monument consent, HEACS has suggested that the legislation has come into being by a number of different routes over the years—the ancient monuments legislation came through the Ministry of Works and the listed building legislation came through the Scottish Office development department. Those are two separate strands of legislation that have been put together and sit slightly uncomfortably with each other. HEACS has suggested that there is a need for a review of the legislation. The fact that there is no timetable to require Historic Scotland to deal with scheduled monument consent applications is one of a number of less satisfactory aspects of the legislation.

**Helen Eadie:** I am interested in your precognition statement and the information that you have given us on the Historic Environment Advisory Council for Scotland, which is extremely enlightening. Will you expand on the proposal to have a national collection with an acquisitions policy? You quote the report by HEACS, which suggests that it might be appropriate to assess whether there are any properties

"whose future might be more appropriately secured outwith state care"

and that a disposals policy should be developed. That seems to be a worthwhile way of proceeding. Will you expand on what you said about a national collection? What has happened to the report? Is it

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just sitting on a shelf gathering dust or has it gone somewhere? Will any follow-up work be done?

**James Simpson:** The Historic Environment Advisory Council's duty is to advise the Minister for Tourism, Culture and Sport. The report on properties in care and the report on a possible review of the legislation were sent to Patricia Ferguson at around the same time, in July last year. Both reports rest with the minister. We have received a letter and a preliminary reply from her, but not a formal or a detailed response.

The suggestion that properties in care might become a separate national collection could address the issue that some people consider to be a problem, which is that although Historic Scotland is formally required to obtain consent for whatever it wishes to do to its own monuments, it is sometimes claimed that in its treatment of applications for consent, proposals for its own more commercial monuments such as Edinburgh and Stirling castles and applications from outside people are not necessarily on a level playing field. A more formal separation between the role of managing the properties in care estate and the other protection function might be helpful.

It has been suggested that the new body might have a collections policy, whereby it would examine the internal logic of the collection of the properties in its care, decide whether there were any gaps in it that could be filled by bringing other properties into care and assess whether there were any properties that were in care almost by accident and which did not really have to continue to be nursed at the state's expense.

Such an idea was raised in the House of Lords during the passage through the Westminster Parliament of the Ancient Monuments and Archaeological Areas Act 1979. John Campbell QC, who is not able to be here today, has been advising Niall Campbell. By looking at *Hansard*, he extracted the information that the issue of disposal was raised in the House of Lords in 1979. In his advice note, he writes:

"the Government Minister, Baroness Stedman, explained that the Act contained a permissive mechanism for the termination of Guardianship ... She envisaged a process where an owner might be regarded as an enthusiastic, responsible individual who would want to look after his own monument. In that case, she said, the State would step back, and allow that to happen".

We submit that Niall Campbell is such an enthusiastic, responsible owner who would like the

state to step back, as Baroness Stedman proposed in 1979, so that he could take responsibility for his own monument. He would be subject to all the controls of the appropriate protection legislation—the listed building legislation or the scheduled monument legislation. That is where we are coming from.

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**Helen Eadie:** That is helpful; thank you very much. We wish you both well. The petition is extremely worth while. Well done.

**Ms White:** As someone who usually actively seeks to get Historic Scotland to list a building—especially in Glasgow, where so many buildings have been demolished before they have been listed—I find it astonishing that when someone comes along who wants to improve a listed building, Historic Scotland acts in such an unhelpful way. I am fully supportive of the petition. Is Historic Scotland being obtuse in this instance? Is there a reason for its attitude?

11:45

**Niall Campbell:** I would hate to decry everybody in Historic Scotland, which has some really good people. There is probably just a view among the upper echelons of management about people such as me who come along and try to disrupt the properties that they manage. Perhaps they think that if there were fewer monuments around, they might not have a job—I do not know. We have found it difficult to deal with the agency. That is all I want to say on the matter.

**John Scott:** You said that much of the restoration work that was carried out during the past 50 years was not good quality, given current practice. Are you proposing to restore areas in which work was badly done?

**Niall Campbell:** Absolutely. As I said, James Simpson has completed a full conservation plan. We examined every available document, we got a terrific archaeologist to look at the castle and we discovered stuff. One cannot decry what was done in the past, because it is reasonable to expect that certain practices will have changed. However, I think that James Simpson would agree that even some of the more recent work has been below standard. A classic example is the door into the main salon, which was taken down and put back incorrectly—it is a metre out. It is almost a pastiche of what it should be. I am conscious that, in a lot of projects of this nature, guys come along and promise to restore a building and make it all-singing and all-dancing, only to be hoist by their own petard. However, I assure members that we have researched the matter thoroughly and know most things about it.

The sad thing about the old castle is that much of the damage was done at the start, when it was in a fairly ruinous state and many of the interiors had been ripped out. It was vital to get a roof on the castle, so that is what happened. We have got quite a lot of the interiors—indeed, we have offered them to Historic Scotland, but the agency does not want them because it wants to keep the castle as it is, which is a great shame.

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**John Scott:** Thank you. I wish you every success in a project that would be of huge benefit to the whole of Ayrshire.

**The Convener:** We are joined by Margaret Jamieson, who is the local member and has an interest in the matter. Do you want to add anything?

**Margaret Jamieson (Kilmarnock and Loudoun) (Lab):** Yes. I want to ensure that colleagues have a broad understanding of the situation. I have worked with Niall Campbell since 1999 in trying to broker a passage—I think that that is the best way of describing what we have been doing—between what he wants to do and what Historic Scotland thinks is its duty. I am concerned that the approach that Historic Scotland understands to be its duty to adopt fails to meet the needs of the community that I serve and the local community.

The previous owner gifted Rowallan old castle in 1950. Before that, the castle was accessible to residents of Kilmaurs and Fenwick, but after 1950 individuals were not able to access the estate or the old castle. It is only through the good offices of Niall Campbell that I have been able to gain access to the estate, although I was born and brought up in the area. I will flesh that out a wee bit: even residents of the area who were students at the Glasgow School of Art and who asked Historic Scotland for access were denied access—that includes a member of the Scottish Cabinet. Everyone has been treated in the same way—I think that the person whom I mentioned is still patiently waiting to be legitimately allowed access.

We managed to secure a rapport with the two local community councils, which felt distanced from Historic Scotland. They were as concerned as I was that no conservation plan had ever been drawn up by Historic Scotland and that there was no specific budget for the castle. For many years, not a penny of public funding was spent on the castle.

I have real concerns. It does not serve the public purse to keep the castle in the guardianship of Historic Scotland. I do not think that it has demonstrated best value in its actions in the past or present. The results of what it has done thus far are questionable. I am not an expert, but I listen to the experts. Historic Scotland is missing the wonderful employment opportunities that would be available for my constituents, in addition to educational and sporting opportunities. We are in close proximity to Prestwick airport in John Scott's constituency. There could be tourism benefits for all of us in Ayrshire. In fact, I say to Jackie Baillie that they could be spread more widely in the west of Scotland and could include Loch Lomond. However, Historic Scotland seems unable to take the blinkers off and see the opportunity that exists

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for us all. It is a crying shame that there is such a facility but Niall Campbell is denied the opportunity to restore it and we, the public, are denied the opportunity to access it.

**The Convener:** Thanks. Before I come to members, I will make my own observations. Having listened to what has been said by the petitioners this morning, I am concerned by Historic Scotland's position as both the manager and the protector of the castle. It seems necessary to rectify such a situation when it creates the circumstances under which a developer finds itself talking to Historic Scotland about a proposal and having to convince Historic Scotland of its merits because Historic Scotland has an eye on both sides of the argument. There must be some disaggregation of that role. I would like to know what the Executive wants to do to address such concerns. I would be interested to know what other members think we should do with the petition.

**Helen Eadie:** I agree whole-heartedly with the convener. This is a first-class petition. For me and people like me throughout Scotland who are really keen on historic buildings, it is good that the petitioners have brought the matter to our attention. I suggest that we agree with the convener's proposal but that we also seek views on the petition from Historic Scotland, the Royal Commission on the Ancient and Historical Monuments of Scotland, the Royal Town Planning Institute and East Ayrshire Council. As usual, we should send a copy of the *Official Report* of this morning's discussion to those organisations. That would be helpful. I congratulate the petitioners.

**Jackie Baillie:** I do not dispute any of that—those suggestions are valid. I highlight two points in particular that we hope that the Executive and the minister, rather than Historic Scotland, will take on board. The first is the point about transferring guardianship. Secondly, I do not know of any public agency that has unlimited deadlines in respect of applications. When will the scheduled monument consent application be dealt with?

**Ms White:** I agree with all that has been said by Helen Eadie and Jackie Baillie. I find two points that Margaret Jamieson raised very concerning. On the fact that no money has been spent on the castle, can we ask Historic Scotland what conservation plans it has for the area and what its budget is for the castle?

**The Convener:** Those are valid questions. We can get specific information on those issues.

I concur with all my colleagues. This is a worthwhile and interesting petition. I thank you very much for bringing it forward and, personally, I wish you good luck with the proposal. Everyone to whom I have spoken has suggested to me that

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your proposal is the best way forward to protect the building itself and to enhance the local community which, as I understood it, is what Historic Scotland is supposed to be about. Obviously, when we receive all the responses from the organisations to which we have written, we will let you see them and you can comment on them.

Does James Simpson wish to add something?

**James Simpson:** May I leave a copy of the conservation plan with the committee? I also have copies of the two relevant HEACS reports with recommendations on whether there is a need to review heritage protection legislation and the criteria that should be used to assess whether a property should be in state care. I presume that those are in the Parliament's library, but if it would be helpful I am happy to leave copies.

**The Convener:** If you leave those documents with the clerk, we will be able to access them.

**John Scott:** Should we also invite the Executive to comment on whether, in light of the two reports, it will review the legislation or consider doing so in the future?

**The Convener:** We can certainly include that in our letter to the Executive. Obviously we will let the petitioners see any response that we receive.