



Case reference	NA-ZET-006
Application details	Change of use of land and development of a new external display area comprising timber-framed boat shelters (enclosed on 3 sides), new concrete slab paving, gravel/chipped display areas and associated surface water drainage
Site address	Scalloway Museum, Castle Street, Scalloway, Shetland
Applicant	Scalloway Museum
Determining Authority	Shetland Islands Council
Local Authority Area	Shetland Islands Council
Reason(s) for notification	The Town and Country Planning (Neighbouring Authorities and Historic Environment Scotland) Direction 2015
Representations	Nil
Date notified to Ministers	20 February 2019
Date of recommendation	23 April 2019
Decision / recommendation	Clear

Description of Proposal and Site:

- Planning permission is being sought for change of use of land and construction of a timber framed boat shelter as part of an extension/external display area to Scalloway Museum, Shetland. The site of the proposed extension is adjacent to a modern museum building but within the scheduled area of Scalloway Castle. The castle and grounds is a property in the care of Scottish Ministers and managed by Historic Environment Scotland.
- Scalloway Castle was constructed in the late 16th/early 17th century by Patrick Stewart, Earl of Orkney and Lord of Shetland and is an impressive roofless L-shaped towerhouse prominently sited on the shoreline of Scalloway village. The scheduled area includes the upstanding remains of the castle and further buried remains of ancillary outbuildings and structures which are no longer apparent on the surface but form an integral part of the castle's significance.

EIA Development:

- Shetland Islands Council screened the proposal for EIA as the development is located within a designated Scheduled Monument which is defined as a 'sensitive area' in Regulation 2(1). They considered that the development would not give rise to significant effects on the surrounding environment in particular on the setting or character of the monument and we are content with this opinion.

Consultations and Representations:

- Historic Environment Scotland (HES) have objected to the development on the basis of a lack of information. A pre-determination archaeological evaluation to identify areas directly affected by the proposal within the scheduled area has not been undertaken. PAD consulted HES following notification who have confirmed that they maintain their objection as they cannot be certain that the location for the proposed development is appropriate or that the design and layout is suitable due to the potential impact on archaeology which has not yet been evaluated. In October 2018, HES investigated a report of unauthorised works where four trial pits were excavated by the applicant for geotechnical investigations related to the proposal. HES considered no damage occurred within the scheduled area and issued an advisory letter.
- Scheduled Monument Consent (SMC) for the required 'Archaeological investigation on site of proposed Museum External Display Area' was granted consent by HES, on the 20 March, subject to two conditions i), relating to the timetabling of proposed works being approved in writing two weeks before works begin and ii), within 3 months of the fieldwork being completed, the details of the findings are to be made publically available. HES have since confirmed that these evaluation works are due to start in May.
- No other representations were made during the consideration of this application.
- PAD consulted SG Culture and Historic Environment Division (CHED) following notification and they indicated that they have no comments on the merits of the case.

Assessment:

1. The planning application has been notified to Ministers because Shetland Islands Council are minded to grant planning permission against the advice of Historic Environment Scotland (HES).
2. The Council considers the application can be approved in compliance with the relevant Shetland Local Development Plan 2014 policies and on the basis of the tourism benefits of the development. The proposed boat sheds will enhance the space and facilities at the Museum by improving an existing high quality attraction which, along with the castle, brings benefits to the local area.
3. HES have objected because the extension proposed would involve ground disturbance for building foundations, drainage and other infrastructure and has the potential to disturb or destroy archaeological remains within a scheduled area and affecting the significance of a Property in Care. The application as it stands has not been supported by an adequate evaluation of the archaeological potential of the area to be affected which is against advice set out in PAN 2/2011 Planning and Archaeology. This requirement for evaluation was also highlighted at an earlier site meeting with the main parties. Any planning consent granted cannot be implemented if a related SMC application for the construction of the new extension cannot be agreed.
4. HES consider that the overall sympathetic design of the relatively small extension building would not have a significant adverse impact on the setting and character

of the castle, and its environs, and have no objection to the proposed development in principle. However the evaluation necessary to inform the planning permission also requires SMC from HES. While SMC for the archaeological evaluation of the affected area has now been granted, the timing and conditions required to be met are out of tandem with this notified planning application. HES are willing to work with the applicant to address the lack of information which could allow them to remove their objection.

5. The Council state in their report of handling that it is difficult to determine whether or not the proposed development would have an adverse effect on the archaeological remains of the site without appropriate archaeological excavation being undertaken. They consider it is possible to carry out the necessary evaluation work and that the submission and agreement of a scheme of mitigation (to include preservation situ) can be made the subject of conditions. By imposing controlling archaeological conditions, the Council are seeking to prevent development taking place that would have an adverse effect on the scheduled monument and its setting.
6. HES disagree with this position. They consider the proposal does raise issues of national importance because it is for development within a scheduled area which is contrary to policy as there is potential for the development to have an adverse effect on a scheduled monument.
7. Consequently, the notification seems premature as the proposed development cannot progress until HES assess and are minded to grant a Scheduled Monument Consent for the construction of the new extension (after the results of the archaeological evaluation works). However, the controlling conditions to be imposed on this planning application achieve what is intended to be achieved in protecting a potentially significant archaeological site and allowing for recording, analysis, mitigation and publication. In this instance, this approach is satisfactory as dialogue between all parties is continuing and there is no planning reason to delay the decision.
8. On balance and taking all the above into account, there are no other outstanding issues for Ministers to consider in relation to this proposal. In our view, this application raises no issues of national importance which requires ministerial intervention.

Recommendation:

- It is recommended that the application be cleared back to Shetland Islands Council for its own determination, subject to the conditions proposed.