



Newtown St Boswells Meirose TD6 0SA Tel: 01835 825251 Fax: 01835 825071 Email: ITSystemAdmin@scotborders.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100105374-001

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

Type of Application

What is this application for? Please select one of the following: *

- Application for planning permission (including changes of use and surface mineral working).
- Application for planning permission in principle.
- Further application, (including renewal of planning permission, modification, variation or removal of a planning condition etc)
- Application for Approval of Matters specified in conditions.

Description of Proposal

Please describe the proposal including any change of use: * (Max 500 characters)

to build a house on the ground

Is this a temporary permission? *

Yes No

If a change of use is to be included in the proposal has it already taken place?
(Answer 'No' if there is no change of use.) *

Yes No

Has the work already been started and/or completed? *

No Yes - Started Yes - Completed

Applicant or Agent Details

Are you an applicant or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

Applicant Agent

Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mr"/>	You must enter a Building Name or Number, or both: *
Other Title:	<input type="text"/>	Building Name: <input type="text" value="hillhouse"/>
First Name: *	<input type="text" value="raymond"/>	Building Number: <input type="text" value="2"/>
Last Name: *	<input type="text" value="keddle"/>	Address 1 (Street): * <input type="text" value="damside"/>
Company/Organisation	<input type="text"/>	Address 2: <input type="text"/>
Telephone Number: *	<input type="text" value=""/>	Town/City: * <input type="text" value="innerliethen"/>
Extension Number:	<input type="text"/>	Country: * <input type="text" value="tweeddale"/>
Mobile Number:	<input type="text"/>	Postcode: * <input type="text" value="eh446hr"/>
Fax Number:	<input type="text"/>	
Email Address: *	<input type="text" value=""/>	

Site Address Details

Planning Authority:	<input type="text" value="Scottish Borders Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text"/>
Address 2:	<input type="text"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text"/>
Post Code:	<input type="text"/>

Please identify/describe the location of the site or sites

<input type="text" value="ground east of rose cottage, Maxwell street, innerliethen"/>
--

Northing

Easting

Pre-Application Discussion

Have you discussed your proposal with the planning authority? *

Yes No

Site Area

Please state the site area:

119.00

Please state the measurement type used:

Hectares (ha) Square Metres (sq.m)

Existing Use

Please describe the current or most recent use: * (Max 500 characters)

grass

Access and Parking

Are you proposing a new altered vehicle access to or from a public road? *

Yes No

If Yes please describe and show on your drawings the position of any existing, Altered or new access points, highlighting the changes you propose to make. You should also show existing footpaths and note if there will be any impact on these.

Are you proposing any change to public paths, public rights of way or affecting any public right of access? *

Yes No

If Yes please show on your drawings the position of any affected areas highlighting the changes you propose to make, including arrangements for continuing or alternative public access.

Water Supply and Drainage Arrangements

Will your proposal require new or altered water supply or drainage arrangements? *

Yes No

Do your proposals make provision for sustainable drainage of surface water?? *
(e.g. SUDS arrangements) *

Yes No

Note:-

Please include details of SUDS arrangements on your plans

Selecting 'No' to the above question means that you could be in breach of Environmental legislation.

Are you proposing to connect to the public water supply network? *

- Yes
 No, using a private water supply
 No connection required

If No, using a private water supply, please show on plans the supply and all works needed to provide it (on or off site).

Assessment of Flood Risk

Is the site within an area of known risk of flooding? *

Yes No Don't Know

If the site is within an area of known risk of flooding you may need to submit a Flood Risk Assessment before your application can be determined. You may wish to contact your Planning Authority or SEPA for advice on what information may be required.

Do you think your proposal may increase the flood risk elsewhere? *

Yes No Don't Know

Trees

Are there any trees on or adjacent to the application site? *

Yes No

If Yes, please mark on your drawings any trees, known protected trees and their canopy spread close to the proposal site and indicate if any are to be cut back or felled.

All Types of Non Housing Development – Proposed New Floorspace

Does your proposal alter or create non-residential floorspace? *

Yes No

Schedule 3 Development

Does the proposal involve a form of development listed in Schedule 3 of the Town and Country Planning (Development Management Procedure (Scotland) Regulations 2013) *

Yes No Don't Know

If yes, your proposal will additionally have to be advertised in a newspaper circulating in the area of the development. Your planning authority will do this on your behalf but will charge you a fee. Please check the planning authority's website for advice on the additional fee and add this to your planning fee.

If you are unsure whether your proposal involves a form of development listed in Schedule 3, please check the Help Text and Guidance notes before contacting your planning authority.

Planning Service Employee/Elected Member Interest

Is the applicant, or the applicant's spouse/partner, either a member of staff within the planning service or an elected member of the planning authority? *

Yes No

Certificates and Notices

CERTIFICATE AND NOTICE UNDER REGULATION 15 – TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND) REGULATION 2013

One Certificate must be completed and submitted along with the application form. This is most usually Certificate A, Form 1, Certificate B, Certificate C or Certificate E.

Are you/the applicant the sole owner of ALL the land? *

Yes No

Is any of the land part of an agricultural holding? *

Yes No

Certificate Required

The following Land Ownership Certificate is required to complete this section of the proposal:

Certificate A

Land Ownership Certificate

Certificate and Notice under Regulation 15 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Certificate A

I hereby certify that –

(1) - No person other than myself/the applicant was an owner (Any person who, in respect of any part of the land, is the owner or is the lessee under a lease thereof of which not less than 7 years remain unexpired.) of any part of the land to which the application relates at the beginning of the period of 21 days ending with the date of the accompanying application.

(2) - None of the land to which the application relates constitutes or forms part of an agricultural holding

Signed: Mr raymond keddle

On behalf of:

Date: 15/05/2018

Please tick here to certify this Certificate. *

Checklist – Application for Planning Permission

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Please take a few moments to complete the following checklist in order to ensure that you have provided all the necessary information in support of your application. Failure to submit sufficient information with your application may result in your application being deemed invalid. The planning authority will not start processing your application until it is valid.

a) If this is a further application where there is a variation of conditions attached to a previous consent, have you provided a statement to that effect? *

Yes No Not applicable to this application

b) If this is an application for planning permission or planning permission in principle where there is a crown interest in the land, have you provided a statement to that effect? *

Yes No Not applicable to this application

c) If this is an application for planning permission, planning permission in principle or a further application and the application is for development belonging to the categories of national or major development (other than one under Section 42 of the planning Act), have you provided a Pre-Application Consultation Report? *

Yes No Not applicable to this application

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

d) If this is an application for planning permission and the application relates to development belonging to the categories of national or major developments and you do not benefit from exemption under Regulation 13 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, have you provided a Design and Access Statement? *

Yes No Not applicable to this application

e) If this is an application for planning permission and relates to development belonging to the category of local developments (subject to regulation 13. (2) and (3) of the Development Management Procedure (Scotland) Regulations 2013) have you provided a Design Statement? *

Yes No Not applicable to this application

f) If your application relates to installation of an antenna to be employed in an electronic communication network, have you provided an ICNIRP Declaration? *

Yes No Not applicable to this application

g) If this is an application for planning permission, planning permission in principle, an application for approval of matters specified in conditions or an application for mineral development, have you provided any other plans or drawings as necessary:

- Site Layout Plan or Block plan.
- Elevations.
- Floor plans.
- Cross sections.
- Roof plan.
- Master Plan/Framework Plan.
- Landscape plan.
- Photographs and/or photomontages.
- Other.

If Other, please specify: * (Max 500 characters)

Provide copies of the following documents if applicable:

- | | |
|--|--|
| A copy of an Environmental Statement. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Design Statement or Design and Access Statement. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Flood Risk Assessment. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Drainage Impact Assessment (including proposals for Sustainable Drainage Systems). * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| Drainage/SUDS layout. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Transport Assessment or Travel Plan | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| Contaminated Land Assessment. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| Habitat Survey. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Processing Agreement. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |

Other Statements (please specify). (Max 500 characters)

Declare – For Application to Planning Authority

I, the applicant/agent certify that this is an application to the planning authority as described in this form. The accompanying Plans/drawings and additional information are provided as a part of this application.

Declaration Name: Mr raymond keddie

Declaration Date: 15/05/2018

Payment Details

Online payment: XM0100002094

Payment date: 04/06/2018 11:50:00

Created: 04/06/2018 11:50

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

Town and Country Planning (General Development Procedure) (Scotland) Order 1992

Application for Planning Permission

Reference : 98/00374/FUL

To : Candleberry Ltd per Patience & Highmore Quadrant 17 Bernard Street Edinburgh EH6 6PW

With reference to your application received on 18th March 1998 for planning permission under the Town and Country Planning (Scotland) Act 1997 for the following development :-

Proposal : Erection of 2 dwellinghouses and extension to Rose Cottage to form garage

at : Rose Cottage Maxwell Street Innerleithen Peeblesshire EH44 6HS

The Scottish Borders Council hereby refuse planning permission for the reason(s) stated on the attached schedule.

Dated 6th July 1998
Planning and Development Department
Council Headquarters
Newtown St Boswells
MELROSE
TD6 0SA

Signed
Head of Development Control

Application reference : 98/00374/FUL

REASONS FOR REFUSAL

1. The inclusion of a house on Plot 2 does not meet the criteria under Tweeddale Local Plan Policy 2 in that it would have a significant adverse effect on the amenities of adjoining property and the community generally. Further, the proposed development of Plot 2 would adversely affect the special character and appearance of this Conservation Area.

FOR THE INFORMATION OF THE APPLICANT

If the applicant is aggrieved by the decision of the Planning Authority, an appeal may be made to the Secretary of State under Section 47 of the Town and Country Planning (Scotland) Act 1997, within six months from the date of this notice. The appeal should be addressed to the Chief Reporter, Scottish Office Inquiry Reporter's Unit, 2 Greenside Lane, Edinburgh, EH1 3AG.

If permission to develop land is refused or granted subject to conditions, whether by the Planning Authority or by the Secretary of State, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner may serve on the Planning Authority a purchase notice requiring the purchase of his interest in the land in accordance with the provisions of Part V of the Town and Country Planning (Scotland) Act, 1997.

SCOTTISH BORDERS COUNCIL

TWEEDDALE AREA COMMITTEE

25 MAY 1998

APPLICATION FOR PLANNING PERMISSION

ITEM:	REFERENCE NUMBER: 98/00374/FUL
OFFICER:	Mr I L Aikman
LOCAL MEMBER:	Councillor R J Meikle
PROPOSAL:	Erection of 2 dwellinghouses and extension to Rose Cottage to form garage
SITE:	Rose Cottage, Maxwell Street, Innerleithen
APPLICANT:	Candleberry Ltd
AGENT:	Patience & Highmore

SITE AND APPLICATION DESCRIPTION:

The site consists of the garden of the property known as "Rose Cottage" and a triangular area of open land adjoining the cottage all of which lies to the north side of Maxwell Street in Innerleithen. This full application relates to the renovation and extension of the existing cottage to provide a garage, the erection of a 1½ storey cottage within the garden ground to the north of the cottage and the erection of a similar style of house on the triangular area of land to the east of the property. The proposals also involve the relocation of the existing access drive to Hillhouse, which provides for an enlarged site area for the house on the open land and the diversion of a right of way.

PLANNING HISTORY:

None.

LOCAL PLAN POLICIES:

Tweeddale Local Plan Policies 2, 18, 43 & 44 apply which state:

Policy 2

In the following settlements opportunities may exist for appropriate infill developments:- Broughton, Innerleithen, Peebles, Walkerburn and other villages as identified by Village Plans. Development proposals should normally satisfy the following criteria:

1. The proposal will not intrude into open countryside or have an adverse impact on the landscape;
2. The proposal will be consistent with, and complement, the character of the settlement;
3. The proposal will be consistent with, and conform to, the form of the settlement;
4. The proposal does not have a significant adverse effect on the amenity of adjoining property;
5. Adequate access and servicing can be achieved;
6. Other policies of the Local Plan are not prejudiced.

Policy 18

In established residential areas there will be a presumption in favour of retaining existing uses. To protect the amenity and character of these areas any development should meet the following criteria:-

1. Appropriate form of development for a residential area;
2. Appropriate scale of development for a residential area;
3. No unacceptable increase in traffic or noise;
4. Not visually intrusive.

Policy 43

The Regional Council will continue to protect and enhance the special character and appearance of Conservation Areas and will ensure that any development is of a quality and design which is appropriate to the area.

Policy 44

The Regional Council will pay particular attention to all development within Conservation Areas, including alterations and/or replacements of windows, shop fronts, boundaries and painting; advertisements; and satellite dishes.

OTHER PLANNING CONSIDERATIONS:

Memorandum of Guidance of Listed Buildings and Conservation Areas

CONSULTATION RESPONSES:

Councillor R J Meikle: Delighted that at long last Rose Cottage is being renovated and this will enhance the area. In addition he has no objections to the erection of a house on plot 1. However, he would not like to see any building on plot 2 on the grass area in front of Rose Cottage. He states that grassed open spaces are becoming less frequent in the town areas and this particular site lies between some of the oldest houses in the conservation area at Innerleithen. It is therefore his view that any building on this plot would not be acceptable.

Director of Technical Services: No objections in principle to the erection of two new houses although he would be unable to support any further housing off Maxwell Street without significant upgrading. He requires a number of minor modifications to the layout and these have been relayed to the applicant.

East of Scotland Water Authority: No technical difficulties in servicing the site.

Innerleithen, Traquair & Glen Community Council: Views reflect the concerns expressed buy the local member in particular with regard to the development of the house on plot 2. Their observations are copied in full with this report.

OTHER RESPONSES:

Two letters of objection have been received to the development one of which is co-signed by 19 parties. These letters are copied with the report for information.

PLANNING ISSUES:

The main determining issues with this application are whether the proposals accord with the Policies of the adopted Local Plan for development within the Conservation Area.

ASSESSMENT OF APPLICATION:

It is considered appropriate to subdivide the application into its three constituent components for deliberation. The observations on each element are set out below:

Extensions and Alterations to Rose Cottage

There is general support for the upgrading of the cottage which has been left in a poor condition for a number of years. The proposed external rooflights to the main building are acceptable and the design of proposed garage is in keeping with the original cottage.

House to Plot 1

As with the works to the main cottage there has been a general acceptance of the house on this plot. The plot is formed from the side garden of the cottage and has sufficient space to accommodate the size of house proposed while providing reasonable amenity space and privacy for the occupants of the two houses. The neighbour Mr Scott at "The Foresters" was concerned about the height of the house. In order to address his reservations the developer has agreed to change the building from a suspended floor to a solid construction to reduce the height and also to dig the house into the plot as far as practicable. A plan illustrating the actual ridge height and finished floor level should be available in time for the meeting of the Committee.

House to Plot 2

The major objections about the development have been with respect to the house on plot 2. These concerns have related to the principle of developing the open area at all, the diversion of a right of way, the possible impact on a drain running through the site and the nature of the house proposed and its impact on adjoining residents.

The first question that requires to be addressed is the acceptability or otherwise of the site for housing. The Tweeddale Local Plan does not allocate the land for housing nor does it protect the area as important private open space. The site lies within a residential zoning where infill development is permitted subject to certain criteria. There have been objections to the principle of the development from the Local Councillor and the Community Council but it is considered that the site has potential for development and that it should be possible to develop the site in a fashion that complies with the various policy issues identified above. The site also lies within the Conservation Area but it is contended that, subject to revisions to the scheme as outlined below, the visual qualities of the area should not be diminished

The applicants wish to divert the right of way which crosses the site but not to close it. The section of the right of way that crosses the open land is merely a dirt track through the centre of the area which is not surfaced, identified or maintained in any way. The applicants propose to divert the right of way down the new vehicular/pedestrian access directly onto Maxwell Street. It is considered that this is acceptable and will mean that pedestrian access will be retained but that there should be adequate supervision of people using the access by the occupants of the new houses. The relocation of the access along the northern boundary between the house to the this plot and Old Damside would not be advisable in the interests of security.

The applicants are aware that there is a pipe running through the site and of the need to discuss with Building Control the various options for building in proximity to the pipe. This could be diverting the pipe or more likely by capping and building over it.

The scale and position of the house proposed originally would have had a serious overbearing impact on the property known as "Old Damside" immediately to the north of the site and was not considered acceptable. Discussions have taken place with the applicant and they have agreed to the amendment of the house on plot 2 so that it becomes a single storey cottage only and that it will be located towards Maxwell Street to reduce the impact on adjacent property. It is anticipated that these amended plans will be available in time for the meeting.

The option of withdrawing the proposal for this plot and submitting a separate application for this plot to allow the determination of the non contentious elements of the application have also been discussed with the applicant. An oral report on this issue will be made at the meeting

RECOMMENDATION BY DIRECTOR OF PLANNING AND DEVELOPMENT

The application is recommended for approval subject to the receipt of suitably amended plans and the following conditions:

01

The vehicular access to the site to be completed to the specification of the Planning Authority before any dwellinghouse is occupied.

Reason: In the interests of road safety.

02

The external materials to be agreed by the Planning Authority before the development is commenced.

Reason: To safeguard the visual amenity of the area.

03

The roofing material to be natural slate, or artificial slate of a type to be approved by the Planning Authority.

Reason: To safeguard the visual amenity of the area.

04

Prior to the commencement of the development the position of the house to plot 2 to be pegged out on site and agreed in writing by the Planning Authority,

Reason : To ensure the satisfactory development of the site.

05

The existing trees on the approved plan identified to be retained to be protected during the construction phase and maintained thereafter to the satisfaction of the Planning Authority.

Reason : In the interests of the visual amenities of the Conservation Area.

06

The right of way illustrated on the approved plans to be retained and kept free from obstruction to the satisfaction of the Planning Authority.

Reason: In the interests of public right of access



THE SCOTTISH OFFICE

Inquiry Reporters

Chief Reporter
2 Greenside Lane
Edinburgh EH1 3AG

5649

Telephone 0131-244 5644
Fax 0131-244 5680

Patience & Highmore
Quadrant
17 Bernard Street
EDINBURGH
EH6 6PW

Your reference: NH/EL/9749

Our reference: PPA/140/74

16 February 1999

Dear Sir

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997: SECTION 47 AND SCHEDULE 4
PLANNING APPEAL BY CANDLEBERRY LTD: ERECTION OF 2 HOUSES AND REFURBISHMENT OF ROSE COTTAGE, MAXWELL STREET, INNERLEITHEN**

1. I refer to your client's appeal, which I have been appointed to determine, against the refusal of planning permission by the Scottish Borders Council for the erection of 2 houses and the refurbishment and extension of Rose Cottage, at Maxwell Street, Innerleithen. I have considered the written submissions and made an accompanied inspection of the appeal site and the surrounding area on 24 November 1998. The written submissions were completed on 7 January 1999. This letter also includes my decision on your request for an award of expenses in favour of your client.

Description and background

2. The appeal site is situated within the built up area of Innerleithen, just off Damside which is a line of older properties facing onto a mill lade. The site is triangular, adjoined by houses to the north and an old peoples home to the west (rear). Rose Cottage, a long established traditional 1.5 storey cottage, stands towards the southwest corner of the site. At the time of the site inspection, work was being carried out on Rose Cottage. The northwest part of the site, to the side of Rose Cottage, was in the preliminary stages of construction work on a new house, also of 1.5 stories. The front part of the site, where it tapers to meet Damside, is open grassland. Maxwell Street extends along the south side of the site, giving access to the old peoples home. A footpath open to the public runs through the site, leading from Damside towards Wells Brae.

3. The planning application proposed a development consisting of 3 elements: the refurbishment and extension of Rose Cottage; the erection of a the 1.5 storey house in the northwest part of the site (plot 1); and the erection of a 3 bedroom bungalow on the front part of the site (plot 2). A new access driveway would lead through the site, serving all 3 dwellings and another house to the north. The existing footpath would not be accommodated through the bungalow site, but would be retained alongside the other new house, where it could be reached by means of the new driveway.

4. The council refused planning permission for the development for the reason that *"the inclusion of a house on Plot 2 does not meet the criteria under Tweeddale Local Plan Policy 2 in that it would have a significant adverse effect on the amenities of adjoining property and the community generally. Further, the proposed development of Plot 2 would adversely effect the special character and appearance of this conservation area."* It is evident that the council is content with the proposed alterations to Rose Cottage and the house proposed on plot 1. A separate planning consent has apparently been granted for these other elements, and work is proceeding on this basis. Thus the central subject of this appeal is the proposed bungalow on plot 2.

The case for the Council and objectors

5. In support of the decision to oppose the house on plot 2, it is stated for the Council that the site lies within a residential zoning in the local plan where infill development is permitted subject to certain criteria. However the Council considers that the development of both new houses on the site would result in overdevelopment that would affect the amenity and character of the area. It would thus not meet the criteria for acceptable infill development set out in policy 2 of the local plan, nor the local plan policy to protect and enhance the special character and appearance of conservation areas.

6. The committee report prepared by Council officials recommended approval of the whole development, subject to detailed positioning of the house on plot 2. The report found the diversion of part of the public footpath to be acceptable, although a subsequent letter from the Council states that the path is frequently used by elderly local residents, and that diversion onto the new shared access driveway would make it less safe for users.

7. Various representations were lodged by local organisations and individuals. There is general support for the restoration of Rose Cottage, and for the new house on plot 1, subject to various points of detail. Concern about the proposed house on plot 2 is expressed by the Innerleithen, Traquair and Glen Community Council; by the owner and occupiers of one of the adjacent houses to the north (Damside Cottage), supported by 19 other local signatories; and by the local Councillor. All of these parties consider plot 2 to form part of an area of open land that has traditionally been available to the public and crossed by the public footpath. It forms a valuable green space among some of the oldest buildings in the conservation area, which should be retained. If a house is to be built on the site, it should be restricted to a single storey, and the design should respect the surroundings. There is also concern about the increased road safety risk to old people if more houses are built, and the diversion of the public footpath.

8. Regarding the potential effect on the amenity of Damside Cottage, there is concern about the loss of outlook from the living room across this open area, and the loss of daylight and privacy at the cottage. A modern building would be out of character with the surroundings, and would detract from the conservation area.

The case for the appellant

9. On behalf of your client, you state that discussions with Council planning officials indicated that two new houses would be acceptable at the appeal site, although the house on plot 2 should be restricted to a single storey. Revised drawings were prepared on this basis, and the scheme was recommended for approval. Although the application was rejected by the Council because it was said to contravene the terms of the local plan, the proposal is entirely acceptable to the planning officials who prepared the local plan.

10. You consider that the proposal would be in accordance with the provisions of the local plan, as it would be an appropriate infill development, within the settlement boundary. You consider that it would enhance the area by refurbishing the existing derelict cottage and neglected garden ground, and would not detract from the character and appearance of the area. The design and detailing of the proposed new houses reflects the scale and character of the existing buildings nearby. The right of way would be maintained across the site. You consider that there are no competent reasons for refusal of permission, noting that the reasons given do not refer to overdevelopment.

CONCLUSIONS

11. Section 25 of the Act requires the determination in this case to be made in accordance with the provisions of the development plan unless material considerations indicate otherwise. The relevant parts of the development plan are the policies in the Tweeddale Local Plan relating to infill development opportunities in various settlements, including Innerleithen (policy 2), and the protection and enhancement of the special character and appearance of conservation areas (policy 43). Thus the first determining issue in this appeal is whether the proposed bungalow on plot 2 would meet the criteria set out in policy 2, and the objective of policy 43; and if not, whether there are other material considerations that would justify approval as an exception to these policies. The location of the site within a conservation area also means that section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 applies. This requires that in making this appeal determination, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the area. The effect on the right of way and the possibility of increased road safety risks for elderly residents are additional factors to be taken into account.

12. The relevant criteria of policy 2 of the local plan are numbers 2-6. Criterion 1 does not apply, as there would be no effect on the countryside or landscape. Criterion 5, relating to access and servicing, is met. Criterion 6 relates to other policies of the local plan, which in this case is principally policy 43, relating to the effect on the conservation area. The remaining 3 criteria relate to consistency with the character and form of the settlement, and adverse effects on the amenity of adjoining property.

13. Looking first at the effect on the character and appearance of the conservation area, I note that there is an attractive range of traditional buildings along Damside facing onto the mill lade. The part of the appeal site where the bungalow is proposed forms a gap in this sequence. Although the proposed bungalow would incorporate some traditional detailing, I am satisfied that it would have the general appearance of a modern L shaped bungalow. It would thus look out of place in this part of the street scene. In addition, it would largely conceal Rose Cottage from view from Damside. The cottage is an attractive traditional building which, even with its new extension, contributes to the character of the area and the views from Damside across the open area in front.

14. The various local objectors submit that the land comprising plot 2 has traditionally been open land available to the public, crossed by a public footpath. I note that the Ordnance Survey map shows the bulk of plot 2 to be open land, not enclosed as part of the garden of Rose Cottage. Irrespective of whether this land is in public or private ownership, I agree with local residents that the loss of this long established open area would detract from the established character of the conservation area. I therefore conclude that the development of a house on plot 2 would be at variance with policy 43 of the local plan, and would detract from rather than preserve or enhance the character of the conservation area.

15. Turning to the other criteria in policy 2, I accept that this form of infill development would be consistent with the character and form of the settlement in general terms, apart from the conservation area issue. There could be some loss of low sunlight to the side windows of Damside Cottage, but no worsening of privacy compared with the existing situation where the public appear to enjoy unrestricted access to the land adjoining the boundary of Damside Cottage. There would be little effect on the outlook from Damside Cottage, as the side of the property is screened by a dyke and vegetation. The location and height of the proposed bungalow in relation to Damside Cottage would be typical in this type of area. Accordingly I conclude that the criteria of policy 2 of the local plan are met, other than the effect on the conservation area embraced by criterion 6.

16. I agree with local objectors that the existing right of way would become less attractive if it is partially re-routed along what is effectively a residential access roadway. The additional house would generate a little extra traffic, which would be an added risk to elderly residents, but I consider that this would make little difference to the overall road safety situation in this quiet cul-de sac.

17. You have suggested that the proposal must conform with the local plan policies because Council officials involved in that plan consider that to be the case. As in many instances, the assessment of whether development plan criteria are met is a matter of judgement. As noted above, I agree with the Council and some objectors that the introduction of a new house in this location would have an unacceptable effect on the character of the conservation area. Mention is also made of the benefit of restoring Rose Cottage, and ending the neglected state of the appeal site. It is evident that work is proceeding on the restoration of the cottage. I do not accept that the tidying up of this small area of ground requires or justifies the erection of a house. I have taken account of all the other matters raised but find none that outweigh these conclusions.

18. Accordingly, in exercise of the powers delegated to me, I hereby dismiss this appeal.

19. This decision is final, subject to the right of any aggrieved person to apply to the Court of Session within 6 weeks of the date of this letter, as conferred by sections 237 and 239 of the Town and Country Planning (Scotland) Act 1997; on any such application the Court may quash the decision if satisfied that it is not within the powers of the Act or that the applicant's interests have been substantially prejudiced by a failure to comply with any requirement of the Act or of the Tribunals and Inquiries Act 1992 or of any orders, regulations or rules made under these Acts.

CLAIM FOR EXPENSES

20. On behalf of your client, you have asked that an award of expenses be made against the Council. The basis of this claim is that the Council acted unreasonably in not accepting the views of its officials that the proposal would comply with the local plan, and should be approved. You submit that the Council produced no competent reasons for refusal.

21. The Council submits that it is not bound to accept the recommendations of officials, and that it formed the view that the house proposed on plot 2 would breach policy 2 of the local plan.

22. As noted in paragraph 4 of SDD Circular 6/1990, parties are normally expected to meet their own expenses. In planning appeals, awards of expenses do not follow the decision on the planning merits but are made only in respect of unreasonable behaviour. Your client's claim for an award of expenses was made at the appropriate stage in the proceedings.

23. I accept the Council's submission that it is not obliged to follow the recommendations of officials. The exception to this would be where the case put forward by officials was so compelling that it would be unreasonable to differ from it. In this case, in dismissing your client's appeal, I have agreed with the Council that the proposal would result in an unacceptable effect on the character of the conservation area, and would thus breach criterion 6 of policy 2 of the local plan. This involves a judgement on which we will have to agree to differ. However it follows from this that I do not accept that it was unreasonable for the Council to set aside the recommendation of the officials, and to reach its own decision on the application, based on councillors' own assessment of whether the proposal would comply with the provisions of the local plan. I therefore hereby decline to make an award of expenses against the Council in favour of your client.

24. Copies of this letter have been sent to the Scottish Borders Council, the Innerleithen, Traquair and Glen Community Council, and those who submitted letters of objection. Mr Michael Moore MP asked to be informed of the outcome of this application, and a copy of this letter has been sent to him.

Yours faithfully

R M HICKMAN
Chief Reporter

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

Town and Country Planning (General Development Procedure) (Scotland) Order 1992

Application for Planning Permission

Reference : 9800875FUL

To : Candleberry Ltd per Patience & Highmore Quadrant 17 Bernard Street Edinburgh EH6 6PW

With reference to your application received on 8th July 1998 for planning permission under the Town and Country Planning (Scotland) Act 1997 for the following development :-

Proposal : Erection of dwellinghouse and alterations and extension to existing dwellinghouse to form garage

at : Rose Cottage Maxwell Street Innerleithen Peeblesshire EH44 6HS

the Scottish Borders Council hereby **grant planning permission** in accordance with the approved plan(s) and the particulars given in the application and in accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997 subject to the following condition:-

that the development to which this permission relates must be begun within five years from the date of this consent.

and subject to the conditions on the attached schedule imposed by the Council for the reasons stated.

Dated 8th September 1998
Planning and Development Department
Council Headquarters
Newtown St Boswells
MELROSE
TD6 0SA

Signed
Head of Development Control

Assistant

Application reference: 98/00875/FUL

SCHEDULE OF CONDITIONS

1. The vehicular access to the site to be completed to the specification of the Planning Authority before any dwellinghouse is occupied.
Reason: In the interests of road safety.
2. The external materials to be agreed by the Planning Authority before the development is commenced.
Reason: To safeguard the visual amenity of the area.
3. The roofing material to be natural slate, or artificial slate of a type to be approved by the Planning Authority.
Reason: To safeguard the visual amenity of the area.
4. Prior to the commencement of the development the position of the house to plot 2 to be pegged out on site and agreed in writing by the Planning Authority,
Reason : To ensure the satisfactory development of the site.
5. The existing trees on the approved plan identified to be retained and protected during the construction phase and maintained thereafter to the satisfaction of the Planning Authority.
Reason : In the interests of the visual amenities of the Conservation Area.
6. The right of way illustrated on the approved plans to be retained and kept free from obstruction to the satisfaction of the Planning Authority.
Reason: In the interests of public right of access.

FOR THE INFORMATION OF THE APPLICANT

1. The Director of Technical Services indicates that the new junction with Maxwell Street should be formed as a footway crossing type access and that the redundant crossing be reinstated to a normal footway. This work must be carried out to his specification by a contractor on his approved list (copy attached). In addition, the height of any boundary marker on the road frontage within 2m of either side of the access should not exceed 0.7m in height.

N.B: This permission does not include any consent, approval or licence necessary for the proposed development under the building regulations or any other statutory enactment and the development should not be commenced until all consents are obtained

If the applicant is aggrieved by the decision of the Planning Authority, an appeal may be made to the Secretary of State under Section 47 of the Town and Country Planning (Scotland) Act 1997, within six months from the date of this notice. The appeal should be addressed to the Chief Reporter, Scottish Office Inquiry Reporter's Unit, 2 Greenside Lane, Edinburgh, EH1 3AG.

If permission to develop land is refused or granted subject to conditions, whether by the Planning Authority or by the Secretary of State, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner may serve on the Planning Authority a purchase notice requiring the purchase of his interest in the land in accordance with the provisions of Part V of the Town and Country Planning (Scotland) Act.

SCOTTISH BORDERS COUNCIL

PLANNING AND DEVELOPMENT COMMITTEE

APPLICATION FOR PLANNING PERMISSION

REF : 98/00875/FUL
APPLICANT : Candleberry Ltd
AGENT : Patience & Highmore
DEVELOPMENT : Erection of dwellinghouse and alterations and extension to existing dwellinghouse to form garage
LOCATION : Rose Cottage
Maxwell Street
Innerleithen
Peeblesshire
EH44 6HS
TYPE : Full Application

Observations by Development Control Officer - Ian Aikman

This is the second application for the development of this site in recent months the earlier application 98/00374/FUL was refused at the July Planning Committee meeting.

The current submission is a revised application which now only involves the renovation of Rose Cottage and extension of the existing cottage to provide a garage and the erection of a 1½ storey cottage within the garden ground to the north of the cottage. The proposals also involve the relocation of the existing access drive to Hillhouse which would also serve Rose Cottage and the new house. The existing right of way will not be diverted this time.

The earlier application illustrated the erection of a similar style of house to that in the garden ground on the triangular area of land to the east of the property. This was the element of the scheme that was particularly controversial and was the principal reason the whole development was refused.

The Community Council raise the issue of the relocation of the access and its likely impact on the trees and any appeal to the Scottish Office. However, I feel that the access improves the junction onto Maxwell Street, that the trees to be removed are not worthy of retention and that the appeal will be based on the earlier application which already illustrated the larger development site.

Recommendation

It is recommended that the application be approved subject to the following condition(s) :-

1. The vehicular access to the site to be completed to the specification of the Planning Authority before any dwellinghouse is occupied.
Reason: In the interests of road safety.
2. The external materials to be agreed by the Planning Authority before the development is commenced.
Reason: To safeguard the visual amenity of the area.
3. The roofing material to be natural slate, or artificial slate of a type to be approved by the Planning Authority.
Reason: To safeguard the visual amenity of the area.
4. Prior to the commencement of the development the position of the house to plot 2 to be pegged out on site and agreed in writing by the Planning Authority,
Reason : To ensure the satisfactory development of the site.

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5. The existing trees on the approved plan identified to be retained and protected during the construction phase and maintained thereafter to the satisfaction of the Planning Authority.
Reason : In the interests of the visual amenities of the Conservation Area.

6. The right of way illustrated on the approved plans to be retained and kept free from obstruction to the satisfaction of the Planning Authority.
Reason: In the interests of public right of access.

31. 8. 98.

DELEGATED PROCEDURE

It is considered that this application can be determined in accordance with the procedure for delegation to the Chairman, the Local Member and the Head of Development Control.

_____ (Local Member) 3-9-98 (Date)
_____ (Chairman) 7/9/98 (Date)