



TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

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

Application for Planning Permission

Reference : 01/00838/FUL

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

With reference to your application received on **15th June 2001** for planning permission under the Town and Country Planning (Scotland) Act 1997 for the following development :-

Proposal : Erection of dwellinghouse with integral garage

at : Land Adjacent 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 24th September 2001
Development and Environmental Planning
Council Headquarters
Newtown St Boswells
MELROSE
TD6 0SA**

Signed
Head of Development Control

Application reference : 01/00838/FUL

REASONS FOR REFUSAL

1. The proposal will be contrary to policy 43 of the Local Plan in that development of this area of open space will have a detrimental impact on the special character and appearance of the 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 Scottish Ministers 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 Executive 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 Scottish Ministers, 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

24 SEPTEMBER 2001

APPLICATION FOR PLANNING PERMISSION

ITEM:	REFERENCE NUMBER: 01/00838/FUL
OFFICER:	Mr B Fotheringham
LOCAL MEMBER:	Councillor R Meikle
PROPOSAL:	Erection of Dwellinghouse with Integral Garage
SITE:	Land Adjacent to Rose Cottage, Maxwell Street, Innerleithen
APPLICANT:	Candleberry Limited
AGENT:	Patience & Highmore (Edinburgh)

SITE AND APPLICATION DESCRIPTION:

The application site is a triangular area of open space adjacent to the property known as Rose Cottage, Maxwell Street, Innerleithen. It is situated within a built up area of Innerleithen, just off Damside, and within Innerleithen Conservation Area. Maxwell Street extends along the south side of the site and a footpath open to the public, runs through the site, leading from Damside to Wells Brae.

The application relates to the erection of a single storey, cottage style dwelling with integral garage. It will be located to the front of the site in line with the existing cottages to the north, and wrap around the corner of Damside and Maxwell Street. It is traditionally designed and will be finished using a dry dash render and slate roof.

PLANNING HISTORY:

98/00374/FUL – Erection of Two Dwellinghouses and Extension to Rose Cottage to Form Garage. This application related to the erection of a single dwellinghouse adjacent to Rose Cottage and the erection of a single storey dwelling on the site of the current application (Plot 2). The application was refused on 6 July 1998 on the grounds that a house on plot 2 would not meet the criteria under Tweeddale Local Plan 1996 Policy 2 in that it would have a significant adverse impact on the amenities of the adjoining property and the community generally. An appeal against this decision was lodged with the Inquiry Reporters Unit but this was later dismissed on 16 February 1999.

98/00875/FUL – A subsequent application was submitted for the erection of a dwelling on the site adjacent to Rose Cottage, but excluded the area known as plot 2 on the earlier application. This application was approved, subject to conditions, on 8 September 1998.

DEVELOPMENT PLAN POLICIES:

Finalised Structure Plan 2001 – 2011:

POLICY N18 - Development affecting Conservation Areas

The Council will support development affecting Conservation Areas that is of a quality and design which will preserve and enhance the special character and appearance of these areas. Development proposals should seek to retain existing features which are considered integral to the character of the Conservation Area. There will be a presumption against development which is considered likely to have an adverse impact on a Conservation Area.

POLICY N20 – Design

The Council will encourage a high quality of layout, design and materials in all new developments, including redevelopments and alterations. Favourable consideration is more likely where development proposals:

- (i) provide a design brief or design statement, where required, as part of a submission for planning permission,
- (ii) incorporate a landscape plan, where required, as part of the application,
- (iii) demonstrate an appropriate use of building materials in keeping with their surroundings,
- (iv) promote the use of recycled building materials where possible,
- (v) demonstrate a consideration of energy efficiency in orientation and design,
- (vi) demonstrate a consideration of water minimisation measures, and
- (i) demonstrate a consideration of safety and security.

Tweeddale Local Plan 1996:

Local Plan Policies 2, 18, 43 and 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:

Historic Scotland Memorandum of Guidance on Listed Buildings and Conservation Areas 1997.

CONSULTATION RESPONSES:

Director of Transport and Environmental Standards: The Director has no objections to this application, however he will now not be able to support any further housing served off Maxwell Street unless the road is upgraded to an adoptable standard.

Innerleithen, Traquair and Glen Community Council: The Community Council considers that this application should be rejected and objects in the strongest possible terms. They consider that the principle of building on this site in the Conservation Area is clearly established and the history of the site in planning terms should be given weighty consideration. The Community Council refers to paragraph 14 of the Inquiry Reporters report, which concludes that 'building would detract from rather than enhance the character of the Conservation Area'. The green area and seating should be restored to what it was. The Community Council is aware that the applicant has left the application site in a mess even in the face of requests to tidy the area and maintain the pathway, and suggest that enforcement action is considered to restore the damage done within this part of the Conservation Area. This valuable green space is amongst some of the oldest buildings in the town and is crossed by a public right of way footpath. This should be preserved in the current location and not diverted especially by way of the residential development and vehicle driveway. The new building as proposed in the current application would have the effect of closing in this area and totally spoil the open amenity effect. It should be rejected.

East of Scotland Water: A gravity supply is available from the existing water mains and a public sewer is available to serve the site.

OTHER RESPONSES:

A total of nine letters of objection have been received in connection with this application. They relate specifically to the principle of erecting a dwelling on this site and the effect it would have on the Conservation Area and public right of way. A letter has also been received from Mr Ian

Jenkins MSP on behalf of a number of his constituents. This has been copied in full with this report, along with the letters of objection, for members' attention.

PLANNING ISSUES:

The main planning issues with this application are whether the site is appropriate for infill development and whether it will have an adverse impact on the special character and amenity of the Conservation Area.

ASSESSMENT OF APPLICATION:

The major concerns about this application relate specifically to the principle of developing the area of open space at all, diverting the right of way, and the impact of the house on neighbouring properties. 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 Innerleithen, Traquair and Glen Community Council and interested members of the public.

The various objectors submit that the land comprising the application site has traditionally been open land available to the pub, crossed by a public footpath. It is accepted that the loss of this long established area would detract from the established character of the Conservation Area. Therefore, it is contended that the development of this site would be at variance with Policy 43 of the Tweeddale Local Plan, and would detract from rather than preserve or enhance the character of the Conservation Area.

The proposed dwelling is a marked improvement on the earlier application (98/00374/FUL) which was refused. It is of a more traditional design which follows the existing pattern of development on Damside, and would not look out of place in this part of the street scene. There is an attractive range of traditional buildings along Damside facing onto the Mill Lade and the proposed dwelling picks up on traditional features such as a slate roof, rendered walls and smooth cement detailing around the windows.

Infill development of this site would be consistent with the character and form of the settlement in general terms. The proposal will not intrude into open countryside or have an adverse impact on the landscape, and it would be consistent with, conform to and complement the character of the settlement. The proposal will not have an adverse impact on the amenity of the adjoining property and adequate servicing can be achieved. Therefore the criteria of Policy 2 can be met, other than the effect the proposals will have on the Conservation Area embraced by criterion 6.

If the area was developed, the public footpath would have to be partially re-routed and it is felt that this public right of way would become less attractive if it is moved to what is effectively a residential access.

RECOMMENDATION BY DIRECTOR OF ECONOMIC DEVELOPMENT AND ENVIRONMENTAL PLANNING:

I recommend that this application be refused for the following reason:

The proposal will be contrary to policy 43 of the Local Plan in that development of this area of open space will have a detrimental impact on the special character and appearance of the Conservation Area.



TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

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

Application for Planning Permission

Reference : 0202049FUL

To : Candleberry Ltd per Skirling Design Studio Balmoral Court West End Carnwath ML11 8RX

With reference to your application validated on **18th December 2002** for planning permission under the Town and Country Planning (Scotland) Act 1997 for the following development :-

Proposal : Erection of 900mm high fence around site

at : Land Adjacent 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 10th February 2003
Economic Development and Environmental Planning
Council Headquarters
Newtown St Boswells
MELROSE
TD6 0SA**

Signed
Head of Development Control



Application reference : 02/02049/FUL

SCHEDULE OF CONDITIONS

1. The colour of the fence to be submitted to and approved by the Planning Authority prior to being erected on site and following erection the fence must be maintained to the satisfaction of the Planning Authority.
Reason: To protect and enhance the character and appearance of the Innerleithen conservation area.

FOR THE INFORMATION OF THE APPLICANT

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

In advance of carrying out any works it is recommended that you contact Utility Bodies whose equipment or apparatus may be affected by any works you undertake. Contacts include:

Transco, Susiephone Department, 95 Kilbirnie Street, Glasgow, G5 8JD
Scottish Power, Drawing Office, 10 Fishwives Causeway, Portobello, Edinburgh, EH5 1EP
East of Scotland Water (Borders Division), West Grove, Waverley Road, Melrose, TD6 9SJ
British Telecom, National Notice Handling Centre, PP404B Telecom House, Trinity Street, Stoke on Trent, ST1 5ND
Scottish Borders Council, Street Lighting Section, Council HQ, Newtown St Boswells, Melrose, TD6 0SA
Cable & Wireless, 1 Dove Wynd, Strathclyde Business Park, Bellshill, ML4 3AL
BP Chemicals Ltd, PO Box 21, Bo'ness Road, Grangemouth, FK2 9XH
THUS, Susiephone Department, 4th Floor, 75 Waterloo Street, Glasgow, G2 7BD
Susiephone System – **0800 800 333**

If the applicant is aggrieved by the decision of the Planning Authority, an appeal may be made to the Scottish Ministers 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 Executive 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 Scottish Ministers, 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
DEVELOPMENT AND BUILDING CONTROL COMMITTEE

10 FEBRUARY 2003

APPLICATION FOR PLANNING PERMISSION

ITEM:	REFERENCE NUMBER: 02/02049/FUL
OFFICER:	Kevin Murphy
LOCAL MEMBER:	Councillor Meikle
PROPOSAL:	Erection of 900mm high fence around site
SITE:	Land Adjacent Rose Cottage, Maxwell Street, Innerleithen, Peeblesshire, EH44 6HS
APPLICANT:	Candleberry Ltd
AGENT:	Skirling Design Studio

SITE AND APPLICATION DESCRIPTION:

The site is a triangle of ground located at the junction between Maxwell Street and Damside. The site has recently been cleared of weeds and building debris.

The applicant proposes to erect a 0.9m picket fence around the site whilst retaining the Right of Way which runs through the site.

PLANNING HISTORY:

01/00838/FUL – An application for a dwellinghouse was refused at the September 2001 Tweeddale Area Committee on the grounds that the proposal was contrary to Policy 43 of the Tweeddale Local Plan 1996.

01/00101/LAND – An Amenity Notice was served in April 2002 due to the untidy appearance of the land. The notice detailed the works required to make the site acceptable. The site owners appealed to the Scottish Executive Inquiry Reporters Unit who dismissed the appeal. Works have commenced on site to comply with the terms of the Reporters letter.

DEVELOPMENT PLAN POLICIES:

Finalised Structure Plan 2001-2011

POLICY N18 - Development affecting Conservation Areas

The Council will support development affecting Conservation Areas that is of a quality and design which will preserve and enhance the special character and appearance of these areas. Development proposals should seek to retain existing features which are considered integral to the character of the Conservation Area. There will be a presumption against development which is considered likely to have an adverse impact on a Conservation Area.

Tweeddale Local Plan 1996

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.

Policy 55

The Regional Council will protect areas of open space, in and around towns and villages, from encroachment or loss by development.

OTHER PLANNING CONSIDERATIONS:

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Director of Transport and Environmental Standards: (Roads) No Objections. (Landscape Section): The footpath from Wells Brae to Damside runs across the site which is at present weedy and overgrown. The area is an open space on the road edge. If, as proposed it were tidied up, grass seeded and mown, it would be of positive benefit to the surrounding area. If on the other hand it is fenced off, it will just continue to be an eyesore. I would wholly support the proposals for the site shown on the plan with the exception of the fence, which I would strongly oppose. The fence would hide further rubbish if it were dumped on the site, it would hinder maintenance of the grass and it would look ugly. It is also unnecessary if the site is properly maintained.

Other Consultees

Innerleithen, Traquair and Glen Community Council: This area of ground is wrongly described in the papers as a building plot. It has been for centuries an area of amenity ground. This should be pointed out to the applicants. As this is the Conservation area this council had understood that the area of land would be restored to what it was before it was damaged and lost to the community. We see no need for a fence. Also strict conditions need applied here to ensure that the amenity ground is maintained and the grass is cut on a frequent basis. With respect to the Right of Way which crosses this area of ground, conditions need to be applied and enforced to allow continued free and easy use of the footpath. Further to this a bench seat was removed near the bottom corner of the site this should be replaced as this was a loss of amenity for residents of the nearby residential home. We do however welcome the fact that this area is being tidied up at last.

OTHER RESPONSES:

None

PLANNING ISSUES:

Will a fence of the height and design proposed unduly affect the character and appearance of the Innerleithen conservation area.

ASSESSMENT OF APPLICATION:

In the Reporters letter, refusing the applicants appeal against the amenity notice, it was noted that a scheme for the treatment of the site had to be submitted. The appellant subsequently submitted a scheme for the treatment of the site which included a proposal to erect a boundary fence. Planning permission would not normally be required for the erection of a fence of this height however permission is required in this instance because the site lies within the Conservation Area. The reason for the removal of the "permitted development rights" that would otherwise have existed is safeguard the character of the conservation area and the planning authority's assessment of the works must focus on whether the proposal will adversely affect the character or appearance of the conservation area.

The fence proposed is similar to others in the vicinity where there is a variety of boundary treatments including stone walls and hedges. Therefore the fence is not considered to be out of keeping with the character of the area nor is it considered that it would adversely affect the character or appearance of the Innerleithen conservation area given the existing diversity.

Historically the site has been an area of open space however the land is privately owned and there is no public right of access to the land, bar passage across the Right of Way which is being maintained as part of the proposals. It would not be reasonable to refuse planning permission in order to maintain public access to an area where no legal right of access exists.

There is no reason to suggest that the erection of a fence should otherwise adversely affect the proper maintenance of the ground.

RECOMMENDATION BY HEAD OF DEVELOPMENT CONTROL:

I recommend that the application be approved subject to the following condition:

1. The colour of the fence to be submitted to and approved by the Planning Authority prior to being erected on site and following erection the fence must be maintained to the satisfaction of the Planning Authority.
Reason: To protect and enhance the character and appearance of the Innerleithen conservation area.

*Original copy of report signed by
BRIAN FRATER (Head of Development Control)*

Land Adjacent Rose Cottage Maxwell Street Innerleithen
02/02049/FUL



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Scottish Borders
COUNCIL