

SCOTTISH BORDERS COUNCIL

DEVELOPMENT AND BUILDING CONTROL COMMITTEE

15 JANUARY 2007

APPLICATION FOR PLANNING PERMISSION

ITEM: REFERENCE NUMBER: 06/01368/OUT

OFFICER: Mr B Fotheringham
LOCAL MEMBER: Councillor N Norman
PROPOSAL: Erection of Dwellinghouse and Garages
SITE: Land South of Birchlands, Rachan Woodlands, Broughton
APPLICANT: Mr & Mrs Beveridge
AGENT: Buccleuch John Sale

SITE AND APPLICATION DESCRIPTION

The application is in outline and seeks to establish the principle of erecting a dwellinghouse and garages on land to the south of Birchlands at Rachan Woodlands near Broughton. The site is located within the former Rachan Estate Policies and within the Tomb Plantation. It is located to the east of the existing fishpond in an area of the woodland dominated by younger, self seeded trees. The application identifies two access options to the site. First option would be via the existing access serving The Norlands, Gardeners Cottage, Garden Cottages, Stable Cottage Coachhouse, Stables Cottage, Beechwood and One Oak. A new vehicular access would be formed opposite The Norlands, through the woodland and along an existing path to the application site. The second, preferred option would be from the public road serving Rachan Home Farm and the existing dwellings on the former sawmill site.

CONSIDERATION BY TWEEDDALE AREA COMMITTEE

This application was first considered by the Tweeddale Area Committee in October 2006 where it was agreed to continue the application to a future meeting of the Area Committee to allow time for the Committee to visit the site. The site visit took place on 7 November 2006 following a detailed briefing from the Planning Officer where the current application and a related application for a dwelling on Plot 1 (06/01697/FUL) was given.

The application was subsequently considered by the Tweeddale Area Committee in November 2006 where it was agreed to continue the application to the December meeting in order to allow the applicant sufficient time to prepare and submit a wildlife study covering bats, otters and badgers.

The application was then considered by the Tweeddale Area Committee in December and the Committee recommended that the application be referred to the Development and Building Control Committee for refusal.

PLANNING HISTORY

04/00782/OUT – Outline planning consent for the erection of a dwellinghouse and garage on land to the south of the application site was refused at the Tweeddale Area Committee on 28 June 2004.

05/01365/OUT – Outline planning consent for the erection of a dwellinghouse and garage on the same site as the earlier application was refused by the Tweeddale Area Committee on 28 November 2005.

DEVELOPMENT PLAN POLICIES

Approved Structure Plan 2001-2011

POLICY N10 - National Scenic Areas

Development in National Scenic Areas will only be permitted where

- (i) the objectives of designation and the overall landscape value of the site will not be compromised, or,
- (ii) any significant adverse effects on the qualities for which the site has been designated are clearly outweighed by social or economic benefits of national importance.

POLICY N11 - Areas of Great Landscape Value

In assessing proposals for development in Areas of Great Landscape Value, the Council will seek to safeguard landscape quality and will have particular regard to the landscape impact of the proposed development. Proposals which have a significant adverse impact will only be permitted where the impact is clearly outweighed by social or economic benefits of national or local importance.

POLICY H5 – New Housing in the Countryside – Building Groups

Proposals for new housing in the countryside outwith defined settlements will normally be supported where they are in accordance with the provisions of the policy guidance 'New Housing in the Borders Countryside'. Favourable consideration is more likely where development proposals:

- (i) are readily accessible to the strategic public transport network,
- (ii) employ energy efficient and/or innovative design principles.
- (iii) incorporate employment-generating uses appropriate to a countryside setting.

POLICY H6 - New Housing in the Countryside - Isolated Housing

Proposals for new housing in the countryside, outwith defined settlements and unrelated to building groups, will only be supported where:

- (iii) the house can be shown by the developer to be essential at that location for the needs of agriculture or other uses currently occupying or requiring an appropriate rural location, and
- (ii) the requirement for a house cannot be satisfied by Policy H5.

Finalised Scottish Borders Local Plan 2005

POLICY D2 – HOUSING IN THE COUNTRYSIDE

The Council wishes to promote appropriate rural housing development:

- (a) in village locations in preference to open countryside, and
 - (b) in dispersed communities in the southern Borders that are experiencing depopulation in preference to areas under significant commuter pressure in the Northern Borders, Central Borders and Berwickshire.
- These general principles will be the starting point for the consideration of applications for housing in the countryside which will be assessed against the Council's Policy Guidance Note "New Housing in the Borders Countryside" 1993, as amended 2000 and 2004 and Structure Plan policies H5 and H6. This policy should be read in conjunction with these other policy statements which give more detailed guidance on siting, design and interpretation.

Housing in the countryside may be approved provided that:

EITHER

(Building Group)

1. The Council is satisfied that the site is well related to an existing group of at least three houses or building(s) capable of conversion to residential use. Where conversion is required to establish a cohesive group of at least three houses, no additional housing will be approved until such conversion has been implemented.
2. In a small number of areas of the Borders where there are few building groups comprising 3 houses and a more dispersed pattern is the norm, a lower threshold may be appropriate. A lower threshold may also be accepted in instances where the development would bring tangible environmental benefits. In these cases the existence of a sense of place will be the primary consideration.

3. Any consents for new build granted under this part of this policy should not exceed 100% of the existing number of housing units in the group. No further development above this threshold should be permitted.

4. The cumulative impact of new development on the landscape and amenity of the surrounding area will be taken into account when determining new applications. Additional development within a building group will be refused if, in conjunction with other developments in the area, it will cause unacceptable adverse impacts

on the landscape or the natural heritage, unless it can be shown that development is merited through other criteria as set out below.

OR

(Anchor point)

The Council is satisfied that the site lies within a recognised “dispersed community” that functions effectively as an anchor point in the southern Borders. These dispersed communities are to be found in areas of rural depopulation and comprise the Ettrick and Yarrow valleys and southern Borders as indicated on Policy Maps P0-P5. Any consents granted under this part of this policy will not normally exceed 100% of the existing number of housing units in the dispersed group. The design of housing will be subject to the same considerations as other types of housing in the countryside proposals.

OR

(Economic Requirement)

The Council is satisfied that:

1. the housing development is a direct operational requirement of an agricultural, horticultural, forestry or other enterprise which is itself appropriate to the countryside; such could include businesses that would cause disturbance or loss of amenity if located within an existing settlement, or
2. the housing development would help support a business that results in a clear social or environmental benefit to the area, including the retention or provision of employment or the provision of affordable or local needs housing

AND

3. no appropriate site exists within a building group, and
4. there is no suitable existing house or other building capable of conversion for the required residential use, and

EITHER

5. a) it is for a worker predominantly employed in an enterprise which is itself appropriate to the countryside and the presence of that worker on-site is essential to the efficient operation of the enterprise,

OR

b) it is for use of a person last employed in an agricultural, horticultural, forestry or other enterprise which is itself appropriate to the countryside, and also employed on the unit that is the subject of the application, and the development will release another house for continued use by an agricultural, horticultural, forestry or other enterprise which is itself appropriate to the countryside.

The applicant and, where different, the landowner, may be required to enter into a Section 75 agreement with the planning authority: to tie the proposed house (or, in the case of 5b). above, any existing house) to the business for which it is justified and to restrict the occupancy of the house to a person solely or mainly employed, or last employed, in that specific business, and their dependants.

A Business Plan, supported by referees or independent business adjudication, may be required in some cases.

OR

(Conversion)

The proposed development is a change of use of a building to a house, provided that:

1. the Council is satisfied that the building has architectural or historic merit or is physically suited for residential use; and
2. the building stands substantially intact (normally at least to wallhead height) and the existing structure requires no significant demolition. A structural survey will be required where in the opinion of the Council it appears that the building may not be capable of conversion; and

3. the conversion and any proposed extension or alteration is in keeping with the scale and architectural character of the existing building.

OR

(Rebuilding)

The proposed development is the rebuilding or restoration of a house, provided that either:

1. the existing building makes a positive contribution to the landscape
 2. the walls of the former residential property stand substantially intact (normally at least to wallhead height), and
 3. no significant demolition is required (A structural survey will be required where it is proposed to fully demolish the building, showing that it is incapable of being restored); and
 4. the restoration/rebuilding and any proposed extension or alteration is in keeping with the scale, form and architectural character of the existing or original building,
 5. Significant alterations to the original character will only be considered where it can be demonstrated that these provide environmental benefits such as a more sustainable and energy efficient design
- or:
6. the proposal relates to an established policy/parkland setting, not normally comprising part of a designed landscape, and
 7. there is evidence of the existence of the building in terms of criteria 1-3 above, or, alternatively, sufficient documentary evidence exists relating to the siting and form of the previous house and this evidence is provided to the satisfaction of the Council, and
 8. the siting and design of new buildings reflects and respects the historical building pattern and the character of the landscape setting, and
 9. the extent of new building does not exceed what is to be replaced.

In ALL instances there shall be compliance with the Council's Policy and Guidance Note on 'New Housing in the Borders Countryside' and must not negatively impact on landscape and existing developments. The cumulative effect of applications under this policy will be taken into account when determining impact.

POLICY EP1 – NATIONAL SCENIC AREAS

Where development proposals impact on a National Scenic Area, developers will be required to comply with Structure Plan policy N10.

POLICY EP2 – AREAS OF GREAT LANDSCAPE VALUE

Where development proposals impact on an Area of Great Landscape Value (AGLV), developers will be required to comply with Structure Plan policy N11.

Tweeddale Local Plan 1996

Policy 7

Outwith the settlements identified in policies 2, 3 and 6, limited new housing development will be encouraged within or adjacent to recognised building groups. All development should meet the following criteria:

1. No adverse effect on the viability of a farming unit or conflict with the operations of a working farm;
2. Satisfactory access and other road requirements;
3. Satisfactory public or private water supply and drainage facilities;
4. No adverse effect on countryside amenity, landscape or nature conservation;
5. No adverse impact on ancient monuments, archaeological sites or on gardens or designed landscapes in the Inventory of Gardens and Designed Landscapes in Scotland;
6. Appropriate siting, design and materials in accordance with Policies 57 and 58.
7. The safeguarding of known mineral resources from sterilisation unless this is acceptable following an assessment of the environmental implications.

Policy 8

There will continue to be a presumption against single houses in the countryside which are not within or adjacent to existing building groups. Development will be permitted if an economic need can be clearly substantiated. Any development should meet the following criteria:-

1. No adverse effect on the viability of a farming unit or conflict with the operations of a working farm;
2. Satisfactory access and other road requirements;
3. Satisfactory public or private water supply and drainage facilities;
4. No adverse effect on countryside amenity, landscape or nature conservation;
5. No adverse impact on ancient monuments, archaeological sites or on gardens or designed landscapes in the Inventory of Gardens and Designed Landscapes in Scotland;
6. Appropriate siting, design and materials in accordance with Policy 57 and 58.
7. The safeguarding of known mineral resources from sterilisation unless this is acceptable following an assessment of the environmental implications.

Policy 57

The Regional Council will ensure that any new building in the countryside is of sympathetic design and materials. Particular attention will also be paid to the location and landscape setting of any development. Skyline locations and ribbon development will not normally be permitted.

Policy 58

Proposals for new residential development, and redevelopment, especially in Conservation Areas and throughout the countryside, should pay particular attention to layout, design and materials to ensure the development is sympathetic to, or complements, the surrounding area.

Policy 75

Within National Scenic Areas, Areas of Great Landscape Value, and within Heritage Areas in the longer term, the Regional Council, in considering development proposals, will seek to safeguard the heritage significance of the area concerned. The heritage significance may relate to landscape quality or amenity, nature conservation, archaeology or cultural issues, or to a combination of these. The Regional Council proposes that:

1. Where conflict arises between development and conservation, precedence will generally be given to the protection of the particular aspect of heritage significance;
2. Landowners and farmers will be encouraged to balance the need for efficient land management with the need to conserve the essential elements of the landscape;
3. Large scale developments, including mineral workings, overhead power lines and industrial buildings, will not normally be permitted unless such development can be shown to be acceptable following an assessment of the environmental implications;
4. Any developments which are acceptable will be required to meet appropriate standards of siting, design, materials and landscape treatment.

N.B. The particular case of development by telecommunications operators is subject to Policy 104A

OTHER PLANNING CONSIDERATIONS

Scottish Borders Council New Housing in the Borders Countryside Policy and Guidance Note 1993 as Amended April 2000 and August 2004.

Planning Advice Note 72 – Housing in the Countryside. February 2005.

SPP 3 – Planning for Housing.

SPP15 – Planning for Rural Development. February 2005.

CONSULTATION RESPONSES

Scottish Borders Council Consultees

Director of Technical Services (Roads): Following pre-application discussions with the applicant I stated that I would be able to support a dwelling at this location provided the access was taken off the B712 as shown as option 2 on the application drawings. I would be unable to support access option 1 as there has already been 4 new build residential properties accessed directly off this road and this is the maximum for a private access road in a rural situation (as per the Transportation Standards in the Finalised Local Plan). In terms of sustainable transport, light pollution etc, I am not able to support an extent of residential development in a rural location such as this and would require a public road. There should be two parking spaces not including any garage and turning available within the curtilage of the site. It should be noted that if the current live application which is accessed directly off the minor public road serving Rachan Wood was to lapse I may be able to support one further access off this road.

Director of Planning and Economic Development (Landscape): I am satisfied that the Woodland Management Plan provides a comprehensive plan and clear objectives for restoring the woodlands to something approaching their original condition using a continuous cover, silvicultural system. Although I do not generally favour building houses within woodland areas, an area was identified to the east of the pond which has relatively little woodland diversity and had potential for a single house. Given the substantial gains that would come from bringing the woodland into proper management, I am satisfied that the proposal can provide a significant net gain in landscape terms. The applicants offer to enter into a Section 75 Agreement to protect the rest of the woodland from further residential development seems the best way to ensure its long term viability. Access Option 1 carries a much heavier cost in terms of tree removals and I strongly prefer the shorter access option 2 and recommend that the application be approved on this basis.

Director of Planning and Economic Development (Access): Although there are no recorded rights of way in this area it has been demonstrated that the community do use the paths in Rachan woodlands. The applicants have stated that they intend to allow continued access through the woodlands. This is an acceptable situation in terms of the land Reform (Scotland) Act.

Statutory Consultees

Upper Tweed Community Council: No objections.

Other Consultees

Scottish Natural Heritage: SNH objects to this application unless additional information relating to European Protected Species and Landscaping are submitted to the Council.

OTHER RESPONSES

Ten letters of objection have been received in connection with this application. The main grounds of objection can be summarised as follows:

- loss of public amenity
- detrimental impact on landscape quality and surrounding environment
- contrary to policy H6 of the Structure Plan
- loss of paths and walkways
- proposals would set a precedent for further housing in woodland areas
- detrimental impact on wildlife conservation
- impact on the national scenic area
- contrary to policy D2 of the finalised local plan
- contrary to the council's housing in the countryside policies
- no economic need
- loss of woodland and habitats
- light pollution
- protection of access routes
- future incremental development

A wildlife study on Bats, badgers and otters was submitted following the November Area Committee. This is copied in full with the papers.

PLANNING ISSUES

Whether the proposal complies with development plan policies for new housing in the countryside.

ASSESSMENT OF APPLICATION

This is the third application for the same applicant for the erection of a dwellinghouse on land within the Tomb Plantation. Earlier applications on land to the south of this application site (04/00782/OUT and 05/01365/OUT) were refused for the following reasons:

The proposal would be contrary to Policy 7 of the Tweeddale Local Plan 1996, Policy D2 of the Scottish Borders Local Plan 2004: Finalised Version and Policy H5 of the Approved Structure Plan 2001-2011 in that the proposed site is not part of, or an appropriate addition to, a recognised building group. In addition the proposal would be contrary to Policy 8 of the Tweeddale Local Plan 1996, Policy D2 of the Scottish Borders Local Plan 2004: Finalised Version and Policy H6 of the Approved Structure Plan 2001-2011 in that the economic need for a house at that location has not been adequately substantiated.

There continues to be a presumption against housing in the countryside unless the sites are within or adjacent to preferred building groups. Additions to other groups of buildings may also be considered where there is the presence of a group and that group is suitable to absorb new development. This policy was amended in April 2000 to include 'dispersed building groups' where additional housing need not be restricted to groups where there is a tight nucleus of properties. Control over excessive development within dispersed groups could be achieved by ensuring the scale and siting of development reflects and respects the existing character of the existing group.

There clearly is the presence of a dispersed building group at Rachan which is characterised by the sense of place surrounding the tomb plantation, the existing traditional housing to the west and the new development on the site of the former sawmill. It is accepted that this group has the potential to absorb additional development provided it reflects and respects the character of the area. The application site is located within an area of woodland to the east of the pond and immediately to the south of Birchlands which does not benefit from a rich woodland diversity. A dwelling could be located within this site without detrimental impact on the long term vitality of the woodland.

The Council's landscape architect is in a position to support this application on the basis that the 10 year woodland management plan and a restriction on further residential development is entered into a legal agreement between the Council and the applicant. This would secure the long term management of the woodland and prevent further residential development within the plantation.

Members will note from the papers that the Director of Technical Services would not be in a position to support this application if the applicant chooses access option 2 as this private track is already serving 3 new build houses and there is a current planning application (06/01697/FUL) for the erection of a house on plot one of the former saw mill site. Plot 1 of the Sawmill Site was subject of an earlier planning application which was approved on 3 September 2001 and which expired on 3 September 2006. Members will recall from the decisions taken last month that full planning consent was granted for the erection of a dwellinghouse on this site. There are now 3 new dwellinghouses and a valid planning consent for the erection of a fourth new dwelling, all served via this access route. This application would be the fifth dwelling serviced off this private access if the house is accessed via Option 2. The Director of Technical Services would object to the erection of this dwelling if it is accessed via option 2 but would be in a position to support the proposals if the dwelling is accessed via option 1. This however, conflicts with the recommendation of the Director of Planning and Economic Development (Landscape) who objects to the use of access option 2 as this would have a greater impact on the woodland in terms of increased tree felling.

Members will also note from the papers that SNH originally objected to the proposal. SNH confirmed in an e-mail dated 9 October 2006 that they no longer wish to object to this application provided the applicant is made aware of the legislation and their responsibility with regards to protected species. This could be covered by an informative attached to any planning consent should members be minded to support this application.

Having re-considered all aspects of this application, including the timing of recent submissions and approvals, timing of expirations, consultation replies and the individual planning merits of the proposal it is

contended that the erection of a dwelling on this site can be supported. Rachan is a highly unique situation where little opportunity exists for further residential development within the sense of place or identifiable limits of the group. The Department fully appreciates the comments made by the Director of Technical Services and acknowledges the Director's policies for housing in the countryside. It is accepted that this 4 dwelling threshold is important for the development of building groups in the countryside but it is considered that the granting of consent for a dwelling on this site would not set a precedent for further developments in the area.

The applicant is prepared to enter into a legal agreement which will prevent further residential buildings being erected on land within his control and which will secure the long term vitality and viability of the woodland through the woodland management plan. Building houses within woodland areas is not generally supported but an area was identified by the planning officer and landscape architect to the east of the pond which has relatively little woodland diversity and has potential for a single house. Given the substantial gains that would come from bringing the woodland into proper management, the department is satisfied that the proposal can provide a significant net gain in landscape terms.

It was noted from the December meeting that Members were concerned about the 'designation' of the pond to the east of the application site. Following discussions with Dr Andy Tharme, Ecology Officer, the pond does not benefit from any designation and would not require a full impact assessment. Dr Tharme, however, suggests that a condition or informative note to the applicant that SEPA's guidelines on pollution prevention be followed in order to avoid pollution from run-off from construction materials. An informative note would cover this issue.

RECOMMENDATION BY HEAD OF PLANNING AND BUILDING STANDARDS

It is recommended that this application be approved subject to the following conditions and informative, and the successful conclusion of a Section 75 Agreement. The Section 75 to cover the management of the woodland and to restrict further residential development.

1. The subsequent approval by the Planning Authority of the means of access, the layout of the site, the design and siting of any buildings and the landscape treatment of the site.
Reason: Approval is in outline only.
2. The vehicular access to the site, shown green on the plans hereby approved, to be completed to the satisfaction of the Planning Authority prior to commencement of development.
Reason: In the interests of road safety.
3. The vehicular access to the site to be taken via Option 2, shown green on the approved plans, only. No vehicular traffic to access the site via Option 1, shown blue on the plans hereby approved.
Reason: In the interests of road safety and to protect the integrity of the woodland.
4. The means of water supply and of both surface water and foul drainage to be submitted for the approval of the Planning Authority.
Reason: To ensure that the site is adequately serviced.
5. The existing trees on the site to be retained and protected to BS 5837:2005 during the construction period and to the satisfaction of the Planning Authority.
Reason: To safeguard the visual amenity of the area.

Original copy of report signed by
BRIAN FRATER (Head of Planning and Building Standards)