

SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

15 JUNE 2023

APPLICATION FOR PLANNING PERMISSION

ITEM: **REFERENCE NUMBER:** 22/01993/FUL

OFFICER: Carlos Clarke
WARD: Tweeddale East
PROPOSAL: Erection of dwellinghouse
SITE: Land Adjacent Rose Cottage, Maxwell Street, Innerleithen
APPLICANT: Mr Raymond Keddie
AGENT: D & H Farmer

SITE DESCRIPTION

The site comprises a roughly triangular area of undeveloped land, enclosed by a low timber fence. It is located on the corner of Maxwell Street and Damside, and along its north-easterly side is a public path. There are residential properties immediately to the north, west (beyond a private road) and south (beyond Maxwell Street). The site is within Innerleithen Conservation Area.

PROPOSED DEVELOPMENT

Full Planning Permission is sought for a single detached house, with access from Maxwell Street to serve two parking spaces. The house would be 1 ½ storey, with a slate roof and rendered walls. A summerhouse would be sited in the rear garden, north of the house.

PLANNING HISTORY

Previous planning applications comprise:

98/00374/FUL – Erection of 2 dwellinghouses and extension to Rose Cottage to form garage – refused in July 1998 because *“The inclusion of a house on Plot 2 (i.e. the current site) 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.”*

An appeal against the above decision was dismissed in February 1999. Planning Permission was subsequently granted under 98/00875/FUL in September 1998 for one house that was subsequently built as ‘Holly Hill’, thus omitting the current site.

01/00838/FUL – Erection of dwellinghouse with integral garage - refused in September 2001 because *“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.”*

02/02049/FUL – Erection of 900mm high fence around site – approved in February 2003

18/00728/PPP – Erection of dwellinghouse – refused in November 2018 because “*The proposed development at this site would be contrary to policies PMD5, EP9 and EP11 of the Scottish Borders Local Development Plan (2016) in that development of this area of green space will have a detrimental impact on the townscape structure of the settlement and the special character and appearance of the Conservation Area.*”

The decision on the above was overturned by the Local Review Body in June 2019 when the decision was made to grant Planning Permission in Principle subject to a legal agreement for development contributions and conditions. The decision notice was not issued, however, because the legal agreement was never concluded.

REPRESENTATION SUMMARY

Objections and a petition, representing six properties, have been submitted in response to the application including assessments of the application and the applicant’s porosity test calculations. All are available to view in full on *Public Access*. A summary of the key issues raised is:

- The site history should be considered in full
- The application is incomplete with fundamental information missing
- The site has never had a substantial building on it. A previous Appeal Reporter considered that its development would detract from the character of Innerleithen Conservation Area. Valuable amenity space would be removed
- The site is not allocated for development in the Local Development Plan 2016
- The site has been used for storing building materials and may be contaminated
- The right of way was altered without authority
- Existing drains cannot cope. SUDS measures are not proposed and the soakaway cannot be achieved.
- The previous decision by the Local Review Body was fundamentally flawed. Surface water drainage should not be left to the Building Warrant stage
- Privacy impacts from the dwellinghouse and summerhouse
- The proposed fence is not supported
- The height would be in contrast to green amenity and affect the landscape of this singular, distinctive Conservation Area

APPLICANT’S SUPPORTING INFORMATION

The initial application was supported by a Design and Access Statement, available to view *on Public Access*. During the processing of the application, porosity tests results were submitted (discussed in the assessment section of this report)

DEVELOPMENT PLAN POLICIES:

National Planning Framework 4

Policy 1: Tackling the Climate and Nature Crises

Policy 2: Climate Mitigation and Adaptation

Policy 3: Biodiversity

Policy 6: Forestry, Woodland and Trees

Policy 7: Historic Assets and Places

Policy 9: Brownfield, Vacant and Derelict Land and Empty Buildings

Policy 12: Zero Waste
Policy 13: Sustainable Transport
Policy 14: Design, Quality and Place
Policy 16: Quality Homes
Policy 18: Infrastructure First
Policy 22: Flood Risk and Water Management

Scottish Borders Council Local Development Plan 2016

PMD1 – Sustainability
PMD2 – Quality standards
PMD5 – Infill Development
HD3 – Protection of residential amenity
EP1 – International nature conservation sites and protected species
EP2 – National nature conservation sites and protected species
EP3 – Local biodiversity
EP9 - Conservation Areas
EP11 - Protection of Greenspace
EP13 – Trees, woodlands and hedgerows
IS2 – Developer Contributions
IS5 – Protection of access routes
IS7 – Parking provision and standards
IS9 – Waste water treatment standards and SUDS
IS13 - Contaminated Land

OTHER PLANNING CONSIDERATIONS:

Supplementary Planning Guidance:

Development Contributions (2011) Updated 2023
Landscape and Development (2008)
Sustainable Urban Drainage Systems (2020)
Trees and Development (2020)
Waste Management (2015)
Placemaking and Design (2010)
Guidance on Householder Development (2006)

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Roads Planning Service: No objections subject to conditions requiring parking for two vehicles; details of the footway crossing; and the crossing to be formed as per standard details.

Estates Service: No reply.

Education and Lifelong Learning Service: No reply

Statutory Consultees

Innerleithen and District Community Council: No reply

Scottish Water: No objection. Capacity at Innerleithen Water Treatment Works is unable to be confirmed. There is currently sufficient capacity for a foul only connection

in the Walkerburn Waste Water Treatment Works. Capacity at either works cannot be reserved. Scottish Water will not accept surface water connections into their combined sewer system. There may be exceptional circumstances for brownfield sites only, though this will require significant justification.

KEY PLANNING ISSUES:

The key planning issues are whether the proposed development constitutes appropriate infill in accordance with the statutory Development Plan and supplementary guidance, particularly as regards the siting, scale and character of the proposed development, including loss of amenity space; impacts on neighbouring amenity; and whether it can be adequately serviced. Where there may be conflict with the Development Plan, other material considerations must also be accounted for, including the most recent decision by the Local Review Body

ASSESSMENT OF APPLICATION:

Principle

Policy 9 of the National Planning Framework 4 (NPF) does not support greenfield development unless specifically supported by Local Development Plan (LDP) policies. In this case, LDP Policy PMD5 supports infill development. Policy 16 of the NPF supports small scale infill opportunities within settlement boundaries, where they are supported by an agreed timescale build-out and are consistent with the spatial strategy. In this case, there is no agreed timescale for build-out, though given the small scale of development, and previous Local Review Body (LRB) decision, this is not necessary. The site is not inconsistent with the spatial strategy. Loss of open space was a concern to this service when considering the previous application, however, the LRB determined that a dwellinghouse would be compliant with the LDP being "*an appropriate infill site within the Innerleithen Conservation Area*". The LRB's decision is a more substantial material consideration in this regard given it was made under the same LDP as currently applies. The previous LRB decision could, in fact, still be issued, if a legal agreement were to be concluded. The LRB decision represents a more substantial consideration than any previous decisions, as a result. Overall, therefore, it is considered that the principle of a house on this site can be accepted as being compliant with the statutory Development Plan.

Services

Water supply and foul drainage are to be obtained from the mains. A condition can require evidence on behalf of Scottish Water that connections have been granted.

As regards surface water drainage, the proposal is for storm water to drain to a soakaway. The location was revised during the processing of the application, and the most recent porosity test was witnessed by the Council's Building Standards Service. This has demonstrated that there is porosity that would indicate that a soakaway appears feasible for the development. It will be for the Building Warrant application to address detailed matters, and a condition can regulate accordingly. A condition can also require the parking area to be drained suitably within the site.

Ecology

There are no ecological designations affected, nor ecological impacts requiring an assessment. Policy 3 of the NPF requires ecological enhancements, and a condition

can be imposed requiring a scheme, which may include additional planting and/or bird/bat boxes as appropriate.

Contamination

The planning officer's Report of Handling on the previous application (18/00728/PPP) noted that *'In discussions with the Enforcement section it was confirmed that the site was cleared up with removal of weeds and bags of builder's rubble following an enforcement order in the past. These materials being stored atop the land rather than within the land'*. There was no requirement, therefore, imposed on the LRB's decision as regards contamination and it would not be appropriate now, under the current application, to condition land contamination.

Trees, landscaping and boundaries

There would be no risk to trees of value to the Conservation Area or local amenity. A single new tree is proposed, along with a section of instant privet hedging to address amenity issues (as noted below), and retention of existing fencing. The site would benefit from additional hedging to the boundaries, and the tree may need relocated depending on drainage requirements. The landscaping requires more detail in any case. A condition can address detailed requirements/additional planting.

Placemaking and design

The general layout, scale and character of the proposals would be sympathetic to the setting, and the character and appearance of the Conservation Area. The applicant was asked to make a number of amendments during the processing of the application and has responded positively. These include - more vertical proportions to the front dormers; slating the rear dormer and improving the window proportion; exposing the rafter ends; pitching the porch; and, incorporating surrounds/mullions to the front elevation. The roof is to be slated, along with the dormers, with the wall finish a suitably specified render, and timber clad porch and rear projection, along with timber sash windows. Hardstandings include setts and pavements. Subject to conditions, the proposal will be a complementary addition to the Conservation Area.

Energy efficiency

The application does not contain information regarding the energy credentials of the development, though it has an open southerly orientation, and meeting and exceeding carbon emissions reduction targets under the Building Standards are matters most suitably addressed via the Building Warrant process. Any measures to achieve this should, however, be appropriate in their visual and amenity implications so a condition is recommended to obtain details of the same, and regulation of any noise from, for example, an air source heat pump, if proposed.

Neighbouring amenity

As regards daylight, sunlight and outlook, having accounted for potential impacts and the orientation and layout of the adjacent property to the north (Damside Cottage including extension/alterations approved under its own Planning Permission 18/00413/FUL), effects on this property in these regards will not notably undermine its amenity. Other properties will also not be determinatively affected in these regards.

As regards privacy impacts, overlooking of Damside Cottage's garden and facing window from facing rooflights was a concern; as was overlooking of the same

property's garden and facing window from the proposed living room window and dining/kitchen. Albeit the design statement refers to possible 1.8m high fencing being erected for screening, this would be visually unsympathetic. Instead, the proposal is now to install a section of instant privet hedging to the same height. This would address privacy impacts from the ground floor openings. As regards the rooflights, these have been positioned higher, and a condition can ensure they will be 1.8m above internal floor level (which will not conflict with Building Standards). With these mitigation measures, the proposal will not unreasonably intrude on the privacy of Damside Cottage, and will not have adverse impacts on other properties.

It is not considered the summerhouse would have consequences for neighbouring amenity as regards light and privacy that would be unreasonable in this context.

Road safety and parking

Two parking spaces are proposed, and the Roads Planning Service raise no concerns. Conditions can be imposed as required by the RPS. There is an existing footway crossing though it may need adjusted to suit the access.

Access route

The path along the north-eastern side of the site was confirmed by the Outdoor Access Officer (during the processing of 18/00728/PPP) as being a public right of way. The LRB determined that, if consent were granted, a condition should secure this route from obstruction. This application initially included it within the site, however, a revised site layout now excludes it from the garden ground, with the existing fence retained. A condition can reinforce this requirement.

Waste storage

This is referred to on the site plan, though a more recessed position would be recommended so bins are not stored beyond the house frontage. A condition can require a small modification to ensure this is the case.

Contributions

A legal agreement will be necessary to secure a financial contribution to Peebles High School and St Ronan's Primary School in order to comply with Policy IS2.

CONCLUSION

Subject to a legal agreement and compliance with the schedule of conditions, the development will accord with the relevant provisions of the statutory Development Plan and there are no material considerations that would justify a departure from these provisions.

RECOMMENDATION BY CHIEF PLANNING AND HOUSING OFFICER:

I recommend the application is approved subject to a legal agreement and the following conditions and informatives:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended.

2. The development shall be implemented in accordance with the plans and drawings approved under this consent, unless otherwise agreed in writing with the Planning Authority.
Reason: To ensure that the development is carried out in accordance with the approved details.
3. No development shall commence until evidence confirming that mains water and foul drainage connections have been approved by Scottish Water has been submitted for the written approval of the Planning Authority. The development shall be serviced only using the approved mains water and foul drainage arrangements, unless otherwise agreed in writing with the Planning Authority.
Reason: To ensure the development is adequately serviced.
4. The dwellinghouse shall not be occupied until surface water drainage is installed either in accordance with the approved site plan and soakaway design, or alternative measures first agreed in writing with the Planning Authority. All hardstanding areas shall be drained by means of porous surfacing, or drained to a permeable or porous area or surface within the application site. All drainage measures shall be maintained in perpetuity in order to manage surface water run-off within the site.
Reason: To ensure surface water is sustainably managed.
5. Notwithstanding the reference on the approved site plan, a revised bin storage area plan shall be submitted for the written approval of the Planning Authority prior to development commencing. The bin storage area shall be provided in accordance with the approved revised plan prior to occupancy of the dwellinghouse, and retained free from obstruction for the storage of bins associated with the dwellinghouse.
Reason: To safeguard the character and appearance of the Conservation Area.
6. The access and parking area shall be implemented in accordance with the approved site plan prior to occupancy of the dwellinghouse, and retained free for the parking of two vehicles associated with the dwellinghouse. The access shall incorporate a footway crossing, details of which have been approved in writing by the Planning Authority prior to development commencing. The crossing shall accord with the Council's standard specification DC10, unless otherwise agreed in writing with the Planning Authority.
Reason: To ensure the development is adequately accessed and serviced.
7. The development shall be implemented in accordance with the plans, drawings and external material specifications approved under this consent, subject to:
 - a) The bottom of the rooflights lighting the bedrooms on the north elevation to be no less than 1.8 metres above the bedroom floor level, and the rooflights shall be dark grey in external frame colour and fitted flush to the slate;
 - b) The south (front) elevation porch door and screens to be timber or composite material in construction;
 - c) The timber cladding colour for both the dwellinghouse and summerhouse and the colour of window surrounds/mullions/cills to be subject to the prior written approval of the Planning Authority;
 - d) The exterior of all windows within the dwellinghouse to be white;
 - e) The dormer and summerhouse roofs to be dark grey/anthracite in colour;
 - f) The rooflight to the south elevation to be dark grey in external frame colour and of 'conservation' specification, details of which shall be subject to the prior written approval of the Planning Authority;

g) Any external renewable energy measures being implemented only in accordance with details first agreed in writing with the Planning Authority. The development shall be implemented only in accordance with the approved details.

Reason: To safeguard the character and appearance of the Conservation Area and amenity of neighbouring properties.

8. Further details of hard and soft landscaping comprising the following shall be submitted for the written approval of the Planning Authority prior to development commencing:

a) A detailed specification for the instant privet hedge, which shall be implemented in full prior to occupancy of the dwellinghouse and maintained at a height of 1.8 metres above ground level;

b) A schedule of planting within the site, including trees, hedging and ground cover, in addition to that specified on the approved plan;

c) Hardstanding specifications;

d) Timescale for implementation of planting;

e) Maintenance scheme for planting.

The landscaping shall be implemented and maintained in accordance with the approved details.

Reason: To safeguard the character and appearance of the Conservation Area.

9. The existing boundary fencing shall be retained, and the existing public right of way shall not be incorporated into the curtilage of the dwellinghouse, in accordance with the approved site plan.

Reason: To safeguard an existing public right of way.

10. No development shall commence until details of a scheme of post-construction ecological enhancements, including timescale for implementation, have been submitted to and approved in writing by the Planning Authority. The approved details shall be implemented within the approved timescale.

Reason: To provide a reasonable level of ecological enhancement relative to the environmental impact of the development in accordance with the statutory development plan

11. Any noise emitted by plant and machinery used within the development shall not exceed Noise Rating Curve NR20 between the hours of 2300 - 0700 and NR 30 at all other times when measured within the nearest noise sensitive dwelling (windows can be open for ventilation). The noise should not contain any discernible tonal component. Tonality shall be determined with reference to BS 7445-2.

Reason: To protect the residential amenity of nearby properties.

Informatives

1. All works within the public road and footway must be carried out by a contractor first approved by the Council as Roads Authority.

DRAWING NUMBERS

Site plan	D001 Rev B
Proposed elevations	D002 Rev A
Proposed floor plans	D003 Rev A
Percolation test results and soakaway design	

Approved by

Name	Designation	Signature
Ian Aikman	Chief Planning and Housing Officer	

The original version of this report has been signed by the Chief Planning and Housing Officer and the signed copy has been retained by the Council.

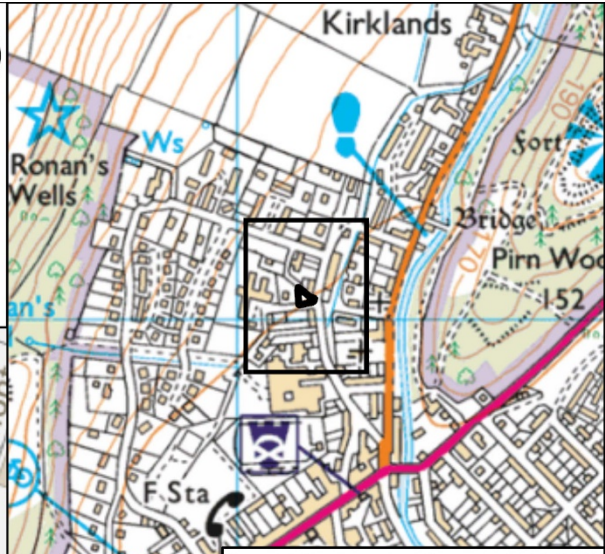
Author(s)

Name	Designation
Carlos Clarke	Team Leader

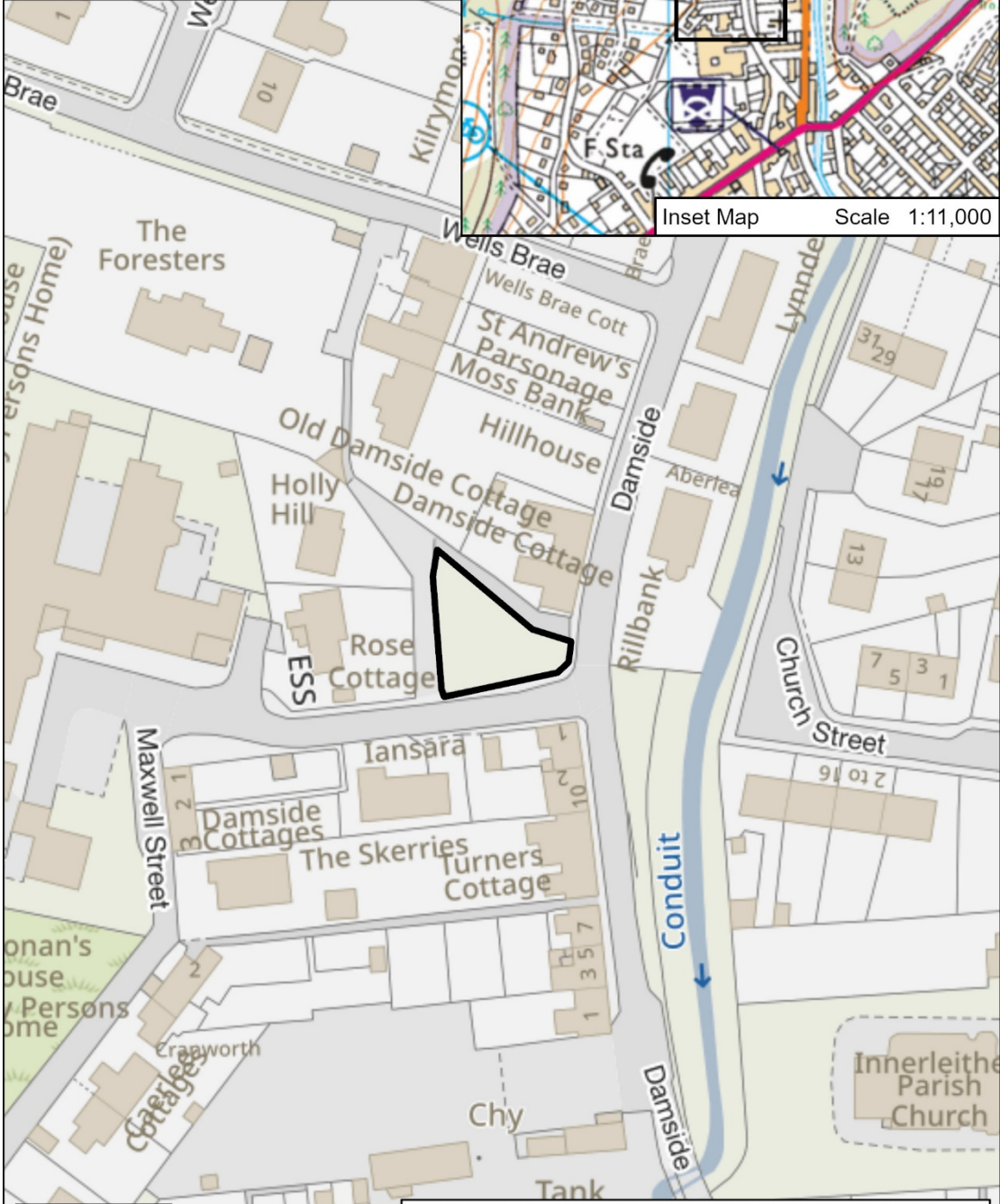


22/01993/FUL

Maxwell St, Innerleithen



Inset Map Scale 1:11,000



Scale 1:1,200