SUMMARY:

Committee is invited to consider the following report and recommendation.

Recommend APPROVAL of development as submitted, subject to conditions.

1.0 PROPOSALS

1.1 DEVELOPMENT: Removal of Condition (Ref 03/00160/FULRC) to Allow Granny Annex to Form a Separate Dwelling

1.2 LOCATION: Viewmount, 8 Canonbury Terrace, Fortrose, Ross-shire, IV10 8TT

1.3 APPLICANT: Mr D Elliott, Viewmount Cottage, 8 Canonbury Terrace, Fortrose

1.4 SITE DESCRIPTION: The property known as Viewmount Cottage consists of a converted outbuilding which is situated within the garden ground of 8 Canonbury Terrace. A garden area has been formed for the cottage which is separated from the main house by a large hedge. A shared parking area is adjacent to Viewmount cottage this is accessed from Precincts road.

2.0 PUBLIC PARTICIPATION

2.1 ADVERTISEMENT: None.

2.2 REPRESENTATIONS:

- A R Jack & Anne Jack, The Oaks, Canonbury Terrace, Fortrose
- Mr & Mrs Zentler-Munro, 6 Canonbury Terrace, Fortrose

A summary of the issues raised by the above representees are as follows:

- Previous applications for separate dwellinghouses within residential properties using Precincts Road and Bishops Road have been consistently refused on the grounds of road safety at the junction of Bishops Road and the High Street.
- Permission was granted for the annex on the basis that it was to be occupied by the grandfather of the owners of 8 Canonbury Terrace. This has never occurred.
- The applicants have always resided in the annex.
- There are a number of properties along Canonbury Terrace which have outbuildings suitable for conversion, approval of this application would open the floodgates.
- The plans show a shared parking area for both properties; this will only work when the properties are in the same family. If either property is sold off with no rights of access to the parking area then cars will be parked on Precincts Road.
3.0 **APPLICANT’S SUBMISSION:** The following points were made in reply to objections from Mr and Mrs Zentler-Munro:

- Viewmount Cottage and Viewmount House are both occupied by family members. Exactly the same family members who have at all times resided within the curtilage of Viewmount House. The existing permission has attracted no additional persons or traffic.
- Mr and Mrs Zentler-Munro state that it has been proposed that Viewmount Cottage be registered as being on Canonbury Terrace. Is this correct? I thought that the whole purpose of the application was to change the cottage from its existing registered address on Canonbury Terrace to its logical one on Precincts Road.
- I do not believe that the removal of the condition sets a precedent for further development as it deals with existing accommodation and does not propose the development of new accommodation. People and traffic issues will remain as they exist now.
- Parking was discussed with the Roads and Traffic Officer Jim Yuill prior to this application. He confirmed that the area for shared car parking was acceptable. Mr and Mrs Zentler-Munro assume too much by speculating about future parking arrangements.
- The point about property value is wholly irrelevant.
- This application was requested by the Highland Council who also requested that it be dealt with as a priority in respect to the application for the erection of a new shed.

The following points were made in reply to objection from Mr and Mrs Jack:

- Previous applications have been refused due to road safety because they would create additional traffic. Mr and Mrs Jack seem to have completely missed the fact that the residents and traffic at Viewmount House/Viewmount Cottage has remained consistent.
- I’d like to draw attention to the lack of objections regarding this application especially when compared to the recent Canonbury Nursery application. It would seem that many local residents disagree with the assertions that the success of this application will set a precedent. This application is the result of much prior discussion from Highland Council in an effort to classify an existing situation.

4.0 **CONSULTATIONS:**

**Fortrose & Rosemarkie Community Council:** Object to the application on the following grounds:

- In November 2005 the Community Council considered Application No 05/00987/FULRC to demolish and replace a shed at Viewmount, Canonbury Terrace. Agreement was subject to the new shed being dimensionally similar to the old one. This seems to have been superseded by the present application.
- No reason is given for changing the status of the Granny Annexe although it is now occupied by a young family, related to the owner of Viewmount. The original approval was granted for housing a family member and the present occupancy, although stretching the point, seems to meet that condition, without any need to change the category of the building.
- Removing the condition to permit a separate dwelling will set a precedent for other owners to apply for conversion of outbuildings in their garden ground. It is understood that such ‘backland’ development is contrary to Planning Guidelines. Given the history of refusal of applications from 1977 to the present day on sites accessed from Precincts...
Road there is no obvious reason to make a special case for the Granny Annexe at Viewmount.

- As a separate dwelling it will be a marketable property from Viewmount itself, although sharing vehicular access to Precincts Road. In non-family ownership additional vehicle movement may be expected and refusal can be justified on this point alone.
- The Community Council has copies of objections from two neighbours and opposes the application for the reasons given in the preceding paragraphs.

TEC Services (Transport): Offer no objections to the application.

- TEC Services have basically an embargo on any further development on Canonbury Terrace and Bishops Road in Fortrose for road safety reasons which are well known and relate to the inadequacies of the junction of Bishops Road with the main A832 road.
- TEC Services were not consulted in 2003 when the conditioned Granny Annex use was approved and hence there was no condition included which excluded an associated car use. Therefore it would be hard to now justify reason why there now a need to exclude car use in association with this proposal.
- The within curtilage parking and turning situation requires to be addressed to prevent cars reversing out on to Precincts Road. The applicant has provided mirrors on both sides of the entrance fitted to the wall which in itself is recognition of the visibility situation at the entrance. This would not be allowed within the curtilage of the road but in this case we cannot stop them. However the applicant should be aware that these mirrors are themselves capable of causing an accident but the way that approaching car headlights can be reflected. The applicant could be held responsible.

(Full text of letter(s) available on request from Area Planning & Building Control Manager)

5.0 POLICY BACKGROUND


POLICIES:
Policy G1 - Conformity with strategy – The Council will support developments, having regard to the Plan’s sustainable objectives, which promote and enhance the social, economic and environmental wellbeing of the people of Highland.
Policy G2 - Design for sustainability – Developments which are judged to be significantly detrimental in terms of the listed criteria shall not accord with the Structure Plan.
Policy G6 – Conservation and promotion of the Highland heritage – The Council will seek to conserve and promote all sites in the areas of Highland identified as being of a high quality in terms of nature conservation, landscape, archaeology of built environment.

5.2 LOCAL PLAN
Ross & Cromarty East Local Plan--Deposit Draft with Modifications (2) - June 2006
POLICIES:
Adopted Plan: Conservation Area Design Brief- General Policy- It will be the general policy of the Council to protect and enhance, by development control, by example, and, where appropriate, by financial incentives, buildings, open spaces, trees, views and other features of the environment which contribute to the character, scale and appearance of the Conservation Area.
Deposit Draft with Modifications:

Settlement Policy H: Housing – The Council will safeguard the function and character of established residential areas and will encourage appropriate development.

Background Policy BP2: The Council will permit development unless this would be likely to have a significantly adverse effect on, or be significantly adversely affected by, the features for which the area had been designated; the Conservation Area applies here. Where it is concluded that any such adverse effects are likely to arise, development will only be permitted where it is considered that these would be outweighed by social or economic benefits. Development within the designated Conservation Area should be carried out in accordance with the established character of the area and the design guidance contained in Appendix 2 this guidance reinforces the need to consider each application on its merits.

5.3 PREVIOUS DECISIONS: Demolition of existing and erection of replacement shed-withdrawn

6.0 PLANNING APPRAISAL

6.1 In 2003 planning permission was sought and approved for the conversion of this outbuilding to a residential unit. The application was lodged on the premise that the accommodation was to be occupied by an elderly relative of the occupiers of 8 Canonbury Terrace. The permission was approved with a condition that stated:

The “granny annex” hereby approved shall be used to house a family member, and at no point shall form a separate dwelling unconnected to the existing dwelling at 8 Canonbury Terrace, Fortrose.

The Planning Service was recently approached by the occupiers of the unit, Mr. and Mrs. Elliot regarding the removal of the condition at the same time that they lodged an application for the erection of a shed. The application for the shed has since been withdrawn. I understand that they wish to have the condition removed to allow a separate mortgage to be raised on the unit. It became clear that although Mr. and Mrs. Elliot are related to the owners of 8 Canonbury Terrace, the unit is being occupied by Mr. and Mrs. Elliot and their children completely independently from the principle house.

6.2 Policy: There are no policy implications with this application.

6.3 Services: In response to a consultation on this application TEC services (Roads) have highlighted that they were not consulted on the original application in 2003. They also comment that there has been for a number of years an embargo on further development off Precincts roads due to the poor geometry of the junctions at Precincts Road/Bishops Road and Bishops Road and the High street. These are matters raised in representations.

As there will be no change from the current situation in terms of the road traffic using the road TEC Services(Roads) offer no objections to the current application. They do comment that the current layout of the parking area requires to be reconsidered to allow vehicles to turn within the site thus avoiding the need for reversing onto Precincts road. The applicant has submitted amended plans which address this issue.

6.4 Representations: Letters of representations have been lodged objecting to the application from adjacent residents as well as the Community Council. The inadequacies of the Precincts Road and the embargo placed on further residential development by the Council are highlighted. The manner in which the application was made and also the way in which the Planning Service dealt with the application have been questioned.
6.5 Conclusion:
In bringing this application before committee it is recognised that there was flaws in the processing of the original applications and that certain assumptions were made by the Planning Service that have lead to the current situation.

Firstly, the Service took at face value that the property was to be occupied by a single family member and that this would not lead to additional traffic using Precincts Road. Secondly, in order to prevent the property being separated from the principle house a Section 75 Agreement should have been negotiated. I appreciate the frustration that is felt by the neighbours, my colleagues in TEC Services and Members regarding this case however accepting the case originally submitted at face value has resulted in the current problem now presented by this application. This case has raised awareness within the department of the need to consider annexes as independent residential units from the outset – they will always have the potential of conversion to separate units and thus generate vehicle traffic and servicing requirements. Section 75 agreements are an appropriate method of control.

The issue now before committee is whether there is any sound planning reason to now refuse permission for the removal of the condition. The removal of the condition will not create a new set of circumstances. It is clear that the manner in which the outbuilding is occupied will remain unchanged. Consequently I find no grounds on which I could recommend that permission be refused.

__________________________________________________________________________________

RECOMMENDATION:
APPROVE

SIGNATURE:       AREA PLANNING & BUILDING STANDARDS MANAGER
DESIGNATION:     AREA PLANNING & BUILDING STANDARDS MANAGER
DATE             15 August 2006
AUTHOR:          Erica McArthur/EMRIRC   Telephone: 01349 864991
LOCAL COUNCILLOR: Billy Barclay

The above report does not rely to any material extent on any document other than those identified in the report.

Background Papers:

Reports/06/00299/FULRC