

17 July 2018

Euan Calvert  
Scottish Borders Council  
Planning & Economic Development  
Council Headquarters  
Newtown St Boswells  
Melrose  
TD6 0SA

By email only to: [dcconsultees@scotborders.gov.uk](mailto:dcconsultees@scotborders.gov.uk)

Dear Mr Calvert

**Town and Country Planning (Scotland) Acts**  
**Planning application: 18/00748/FUL**  
**Variation of Condition 1 of planning permission 13/01081/FUL to allow the**  
**lifespan of the application to be extended by a further three years**  
**Plot 1, Land South East of Mounthooly House, Jedburgh, Scottish Borders.**

Thank you for your consultation email which SEPA received on 04 July 2018.

**Advice for the planning authority**

We **object** to this planning application on the grounds of lack of information on flood risk. We will review this objection if the issues detailed in Section 1 below are adequately addressed.

**1. Flood risk**

- 1.1 We **object** to the proposed development on the grounds that it may place buildings and persons at flood risk contrary to Scottish Planning Policy.
- 1.2 In the event that the planning authority proposes to grant planning permission contrary to this advice on flood risk, the Town and Country Planning (Notification of Applications) (Scotland) Direction 2009 provides criteria for the referral to the Scottish Ministers of such cases. You may wish to consider if this proposal falls within the scope of this Direction.
- 1.3 Review of the SEPA Flood Map indicates that the site lies within the 0.5% annual probability (1 in 200-year) flood extent and may therefore be at medium to high risk of flooding. The site is located close to the confluence of the Jed Water and River Teviot and potentially there could be a flood risk from high flows on either or both watercourses.

continued....

- 1.4 We were consulted on the extant planning permission for the site (13/01082/FUL) and had no objection as we held information from a Flood Risk Assessment (FRA) for an adjacent site which indicated that the proposed finished floor levels for the dwelling were likely sufficient to be above a significant level of flooding. This FRA was carried out around 10 years ago and in that time methodologies for assessing flood risk have improved and we hold more data on flood events. The FRA previously carried out was also not specific for this site. As such, we advise a new/updated FRA is needed to determine the flood risk at the site based on the new methodologies and data.
- 1.5 In order for us to be able to remove our objection the FRA should demonstrate: that the site is outwith the 1 in 200-year flood extent; safe (i.e. flood free) access and egress can be provided during a flood event; and that finished floor levels are raised a minimum of 600mm above the predicted flood level. We would highlight that the provision of a FRA may just serve to show the site is unsuitable for development. We recommend that an allowance for climate change is applied to the design flow in determining any mitigation required for the site outwith the 1 in 200-year flood extent.

## Summary

- 1.6 In summary, the site is shown to be at medium to high risk of flooding in the SEPA Flood Map. Whilst we acknowledge that this application is for an extension to time for an extant planning permission which we did not object to, we consider the provision of an updated FRA is necessary to demonstrate that the site can be developed in accordance with Scottish Planning Policy. Clarification is needed on the following points
- A FRA to demonstrate the site is outwith the functional floodplain, that flood free access and egress can be provided and finished floor levels provide a minimum of 600mm freeboard above the flood level. A FRA may just serve to show the site is unsuitable for development.

## Caveats & Additional Information for Applicant

- 1.7 The SEPA Flood Maps have been produced following a consistent, nationally-applied methodology for catchment areas equal to or greater than 3km<sup>2</sup> using a Digital Terrain Model (DTM) to define river corridors and low-lying coastal land. The maps are indicative and designed to be used as a strategic tool to assess flood risk at the community level and to support planning policy and flood risk management in Scotland. For further information please visit <http://www.sepa.org.uk/environment/water/flooding/flood-maps/>

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- 1.8 We refer the applicant to “*Technical Flood Risk Guidance for Stakeholders*”. This document provides generic requirements for undertaking Flood Risk Assessments and can be downloaded from <http://www.sepa.org.uk/media/162602/ss-nfr-p-002-technical-flood-risk-guidance-for-stakeholders.pdf>. Please note that this document should be read in conjunction with Policy 41 (Part 2).
- 1.9 Our Flood Risk Assessment checklist should be completed and attached within the front cover of any flood risk assessments issued in support of a development proposal which may be at risk of flooding. The document will take only a few minutes to complete and will assist our review process. It can be downloaded from <http://www.sepa.org.uk/media/159170/flood-risk-assessment-checklist.xls>
- 1.10 Please note that we are reliant on the accuracy and completeness of any information supplied by the applicant in undertaking our review, and can take no responsibility for incorrect data or interpretation made by the authors.
- 1.11 The advice contained in this letter is supplied to you by SEPA in terms of Section 72 (1) of the Flood Risk Management (Scotland) Act 2009 on the basis of information held by SEPA as at the date hereof. It is intended as advice solely to Scottish Borders Council as Planning Authority in terms of the said Section 72 (1).

## **2. Foul drainage.**

- 2.1 It appears that foul drainage will go to a closed soakaway. SEPA has no objection to this providing ground conditions are suitable. The applicant should contact SEPA’s local office in Galashiels to discuss this part of the proposal.

## **Regulatory advice for the applicant**

### **3. Regulatory requirements**

- 3.1 Details of regulatory requirements and good practice advice for the applicant can be found on the [Regulations section](#) of our website. If you are unable to find the advice you need for a specific regulatory matter, please contact a member of the regulatory team in the local SEPA office at:

Burnbrae, Mossilee Road, Galashiels TD1 1NF.

Tel: 01896 754797

If you have any queries relating to this letter, please contact me by telephone on 0131 273 7334 or e-mail at [planning.se@sepa.org.uk](mailto:planning.se@sepa.org.uk).

Yours sincerely

Paul Lewis  
Senior Planning Officer  
Planning Service

*Disclaimer*

*This advice is given without prejudice to any decision made on elements of the proposal regulated by us, as such a decision may take into account factors not considered at this time. We prefer all the technical information required for any SEPA consents to be submitted at the same time as the planning or similar application. However, we consider it to be at the applicant's commercial risk if any significant changes required during the regulatory stage necessitate a further planning application or similar application and/or neighbour notification or advertising. We have relied on the accuracy and completeness of the information supplied to us in providing the above advice and can take no responsibility for incorrect data or interpretation, or omissions, in such information. If we have not referred to a particular issue in our response, it should not be assumed that there is no impact associated with that issue. For planning applications, if you did not specifically request advice on flood risk, then advice will not have been provided on this issue. Further information on our consultation arrangements generally can be found on our [website planning pages](#).*

Our ref: PCS/164052  
Your ref: 18/00748/FUL

If telephoning ask for:  
Paul Lewis

25 March 2019

Euan Calvert  
Scottish Borders Council  
Planning & Economic Development  
Council Headquarters  
Newtown St Boswells  
Melrose  
TD6 0SA

By email only to: [dcconsultees@scotborders.gov.uk](mailto:dcconsultees@scotborders.gov.uk)

Dear Mr Calvert

**Town and Country Planning (Scotland) Acts**  
**Planning application: 18/00748/FUL**  
**Variation of Condition 1 of planning permission 13/01081/FUL to allow the lifespan of the application to be extended by a further three years.**  
**Plot 1 Land South East of Mounthooly House, Jedburgh, Scottish Borders.**

Thank you for your consultation which SEPA received on 21 February 2019.

**Advice for the planning authority**

We **object in principle** to this application to extend the lifespan of planning permission 13/01081/FUL on the grounds of flood risk.

**1. Flood Risk**

- 1.1 We **object in principle** to the proposed development on the grounds that it may place buildings and persons at flood risk contrary to Scottish Planning Policy.
- 1.2 Given the location of the proposed development within the functional floodplain we do not consider that it meets with the requirements of Scottish Planning Policy and our position is unlikely to change. We have a shared duty with Scottish Ministers and other responsible authorities under the Flood Risk Management (Scotland) Act 2009 to reduce overall flood risk and promote sustainable flood risk management. The cornerstone of sustainable flood risk management is the avoidance of flood risk in the first instance
- 1.3 In the event that the planning authority proposes to grant planning permission contrary to this advice on flood risk, the Town and Country Planning (Notification of Applications) (Scotland) Direction 2009 provides criteria for the referral to the Scottish Ministers of such cases. You may wish to consider if this proposal falls within the scope of this Direction.



Chairman  
Bob Downes  
Chief Executive  
Terry A'Hearn

SEPA Edinburgh Office  
Silvan House, 3rd Floor, 231 Corstorphine Road,  
Edinburgh EH12 7AT.  
[www.sepa.org.uk](http://www.sepa.org.uk) • customer enquiries 03000 99 66 99

- 1.4 Notwithstanding this position we have included our review of the information supplied. Provision of this review does not imply that we consider there to be a technical solution to managing flood risk at this site which meets with Scottish Planning Policy.

### **Technical review**

- 1.5 Review of the SEPA Flood Map indicates that the site lies fully within the 0.5% annual probability (1 in 200-year) flood extent and may therefore be at medium to high risk of flooding. The site lies adjacent to the confluence of the Jed Water and the River Teviot and as such may be at flood risk from either, or a combination of both of these sources. We are aware of flooding locally and in particular the A698 being flooded and impassable close to the site.
- 1.6 We note that this is an application to vary a condition on a previously approved planning permission in order to extend the time of the permission. SEPA were consulted on the previous application and had no objection as information held at that time from a Flood Risk Assessment (FRA) carried out for a nearby site indicated that the proposed finished floor levels of the properties would be above any predicted flood level. However, given the time which has elapsed since this previous FRA was carried out, we requested an updated FRA to be provided which used current methodologies and up-to-date information to assess flood risk and demonstrate that the site was suitable for development under current policy and guidance.
- 1.7 A Stage 1 FRA has been provided in support of this application. This includes hydrological modelling using the FEH Statistical Method which is appropriate for such larger, gauged catchments and also a linked 1D-2D model to determine flood extents and depths at this location. We note that the model has not incorporated surveyed topographical information but is based on LiDAR information, which may lead to some inaccuracies in the results.
- 1.8 The results of the FRA indicate that the site is fully within the 1 in 200-year flood extent (functional floodplain) with the primary flooding mechanism coming from the Jed Water, which overtops the right bank upstream of the A698 bridge and flows through the site before joining with the floodplain of the River Teviot. The flood depths predicted at the site are approximately 0.92m (0.94m with a 20% allowance for climate change). It is noted that as the modelling is based on LiDAR information that the flood levels may be conservative but given the significant depths, any remodelling using surveyed information is unlikely to show the site to be outwith the functional floodplain. The modelling also demonstrates that there will be no safe, flood-free access and egress during a flood event.
- 1.9 Given the site is shown to be fully within the functional floodplain we are unable to support any new development at this location. Further to this, there would be no safe access and egress for the properties. We note that the modelling has been based on LiDAR information, however, we are in agreement with the consultant that given the significant depth of flooding predicted at the site, it is unlikely to show the site to be outwith the floodplain and our position would therefore not change.

### **Caveats & Additional Information for Applicant**

- 1.10 The SEPA Flood Maps have been produced following a consistent, nationally-applied methodology for catchment areas equal to or greater than 3km<sup>2</sup> using a Digital Terrain Model (DTM) to define river corridors and low-lying coastal land. The maps are indicative and designed to be used as a strategic tool to assess flood risk at the community level and

to support planning policy and flood risk management in Scotland. For further information please visit <http://www.sepa.org.uk/environment/water/flooding/flood-maps/>

- 1.11 Please note that we are reliant on the accuracy and completeness of any information supplied by the applicant in undertaking our review, and can take no responsibility for incorrect data or interpretation made by the authors.
- 1.12 The advice contained in this letter is supplied to you by SEPA in terms of Section 72 (1) of the Flood Risk Management (Scotland) Act 2009 on the basis of information held by SEPA as at the date hereof. It is intended as advice solely to Scottish Borders Council as Planning Authority in terms of the said Section 72 (1).

If you have any queries relating to this letter, please contact me by telephone on 0131 273 7334 or e-mail at [planning.se@sepa.org.uk](mailto:planning.se@sepa.org.uk).

Yours sincerely

Paul Lewis  
Senior Planning Officer  
Planning Service

*Disclaimer*

*This advice is given without prejudice to any decision made on elements of the proposal regulated by us, as such a decision may take into account factors not considered at this time. We prefer all the technical information required for any SEPA consents to be submitted at the same time as the planning or similar application. However, we consider it to be at the applicant's commercial risk if any significant changes required during the regulatory stage necessitate a further planning application or similar application and/or neighbour notification or advertising. We have relied on the accuracy and completeness of the information supplied to us in providing the above advice and can take no responsibility for incorrect data or interpretation, or omissions, in such information. If we have not referred to a particular issue in our response, it should not be assumed that there is no impact associated with that issue. For planning applications, if you did not specifically request advice on flood risk, then advice will not have been provided on this issue. Further information on our consultation arrangements generally can be found on our [website planning pages](#).*

## PLANNING CONSULTATION

On behalf of: Director of Education & Lifelong Learning

From: Director of Assets & Infrastructure

Contact: Neil Hastie, Estates Manager

To: Head of Planning & Building Standards

Date: 10<sup>th</sup> July 2018

Contact: Euan Calvert ☎ 01835 826513

Ref: 18/00748/FUL

### PLANNING CONSULTATION

**Name of Applicant:** Bentley Developments

**Agent:** Ferguson Planning

**Nature of Proposal:** Variation of Condition 1 of planning permission 13/01081/FUL to allow the lifespan of the application to be extended by a further three years

**Site:** Plot 1, Land South East of Mounthooly House, Jedburgh, Scottish Borders

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**OBSERVATIONS OF: Education & Lifelong Learning (Neil Hastie)**

## CONSULTATION REPLY

I refer to your request on the above proposal and confirm that Education have no objection.

*Please note that the level of contributions for all developments will be reviewed at the end of each financial year and may be changed to reflect changes in the BCIS index – therefore, we reserve the right to vary the level of the contributions.*

If you require any further information please do not hesitate to contact me by emailing [estatesmanagement@scotborders.gov.uk](mailto:estatesmanagement@scotborders.gov.uk)

# Consultation Reply



## ENVIRONMENT AND INFRASTRUCTURE

**To:** HEAD OF PLANNING AND REGULATORY SERVICE

**FAO:** Euan Calvert

**Your Ref:** 18/00748/FUL

**From:** HEAD OF ENGINEERING & INFRASTRUCTURE

**Date:** 2<sup>nd</sup> August 2018

**Contact:** Ian Chalmers

**Ext:** 5035

**Our Ref:** B48/2549

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**Nature of Proposal:** Variation of Condition 1 of planning permission 13/01081/FUL to allow the lifespan of the application to be extended by a further three years

**Site:** Plot 1 Land South East Of Mounthooly House Jedburgh

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In terms of information that this Council has concerning flood risk to this site, I would state that The Indicative River & Coastal Flood Map (Scotland) known as the "second generation flood mapping" prepared by SEPA indicates that the site is at risk from a flood event with a return period of 1 in 200 years. That is the 0.5% annual risk of a flood occurring in any year.

The Indicative River & Coastal Flood Map (Scotland) has primarily been developed to provide a strategic national overview of flood risk in Scotland. Whilst all reasonable effort has been made to ensure that the flood map is accurate for its intended purpose, no warranty is given.

Due to copyright restrictions I cannot copy the map to you however, if the applicant wishes to inspect the maps they can contact me to arrange a suitable time to come in and view them.

This site is shown to be at risk of flooding during a fluvial 1 in 200 year flood event. As well as this, there has been flooding in recent years in Mounthooly, with adjacent properties experiencing flooding issues in 2015.

Although we were consulted on previous applications at this site, including 13/01081/FUL, and considered the Flood Risk Assessment (FRA) submitted for nearby property at the time, we now feel that as there have been advancements in methodologies in assessing flood risk, the FRA was undertaken around 10 years ago and that this was not a site specific FRA, this FRA is no longer sufficient to suitably assess the flood risk. Furthermore, since 2013 flood events have affected Mounthooly and adjacent properties so may well have affected this site without being reported.

Therefore, as this site is at risk of flooding during a 1 in 200 year flood event, I would object to the proposal on the grounds of flood risk.

I would also object to the proposal on the grounds that there are no suitable safe access and egress routes from the site.

I would require that a new FRA is submitted and develops a 1 in 200 year plus climate change flood level and assesses if the new development is at risk of flooding and if appropriate how much flood plain storage is lost.

Should the FRA show that compensatory storage is required the FRA should include measures to provide this.

Ideally a Finished Floor Level (FFL) above the 1 in 200 year plus climate change level should be developed with an appropriate allowance for freeboard.

I would also require the FRA to show suitable access and egress routes to and from the site for emergency vehicle entry, it is our opinion that emergency vehicles cannot drive through more than 300mm depth of water.

Please note that a joint Plot 1 – Plot 2 FRA is acceptable.

Please note that this information must be taken in the context of material that this Council holds in fulfilling its duties under the Flood Risk Management (Scotland) Act 2009.

Ian Chalmers  
Engineer – Flood and Coastal Management

# Consultation Reply



## ENVIRONMENT AND INFRASTRUCTURE

**To:** HEAD OF PLANNING AND REGULATORY SERVICE

**FAO:** Euan Calvert

**Your Ref:** 18/00748/FUL

**From:** HEAD OF ENGINEERING & INFRASTRUCTURE

**Date:** 11<sup>th</sup> March 2019

**Contact:** Ian Chalmers

**Ext:** 5035

**Our Ref:** B48/2679

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**Nature of Proposal:** Variation of Condition 1 of planning permission 13/01081/FUL to allow the lifespan of the application to be extended by a further three years

**Site:** Plot 1 Land South East of Mounthooly House Jedburgh

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In terms of information that this Council has concerning flood risk to this site, I would state that The Indicative River & Coastal Flood Map (Scotland) known as the "third generation flood mapping" prepared by SEPA indicates that the site is at risk from a flood event with a return period of 1 in 200 years. That is the 0.5% annual risk of a flood occurring in any year.

The Indicative River & Coastal Flood Map (Scotland) has primarily been developed to provide a strategic national overview of flood risk in Scotland. Whilst all reasonable effort has been made to ensure that the flood map is accurate for its intended purpose, no warranty is given.

Due to copyright restrictions I cannot copy the map to you however, if the applicant wishes to inspect the maps they can contact me to arrange a suitable time to come in and view them.

A Flood Risk Assessment undertaken by Kaya Consulting, dated 19<sup>th</sup> February 2019, was submitted as part of this application. Within it is stated that the site anticipated to flood to depths of up to 0.92m at a 1 in 200 year flood event and 0.94m at a 1 in 200 year + climate change flood event. This assessment is anticipated to be more accurate than SEPA's indicative flood mapping.

Scottish Planning Policy states that no residential property should be built within the 1 in 200 year flood plain. As the site is at risk of flooding at a 1 in 200 year event, I would object to this proposal on flood risk grounds.

Furthermore, the A698 is shown to be flooded at a 1 in 200 year flood event and there is currently no safe access/egress routes at the site.

The applicant is welcome to submit further modelling information but given the results of this assessment and the SEPA mapping, there is a high likelihood that any other assessment would also show that the site is at risk.

Please note that this information must be taken in the context of material that this Council holds in fulfilling its duties under the Flood Risk Management (Scotland) Act 2009.

Ian Chalmers  
Engineer – Flood and Coastal Management

# CONSULTATION RESPONSE TO PLANNING OR RELATED APPLICATION



Comments provided by	Roads Planning Service		Contact e-mail/number:	
Officer Name and Post:	Keith Patterson Roads Planning Officer		<a href="mailto:kpatterson@scotborders.gov.uk">kpatterson@scotborders.gov.uk</a> 01835 826637	
Date of reply	25 <sup>th</sup> July 2018			
Planning Application Reference	18/00748/FUL	Case Officer: Euan Calvert		
Proposed Development	Variation of Condition 1 of planning permission 13/01081/FUL to allow the lifespan of the application to be extended by a further three years			
Site Location	Plot 1 Land South East of Mounthooly House, Jedburgh.			
<i>The following observations represent the comments of the consultee on the submitted application as they relate to the area of expertise of that consultee. A decision on the application can only be made after consideration of all relevant information, consultations and material considerations.</i>				
Background and Site description				
Key Issues (Bullet points)				
Assessment	I have no objection to this proposal.			
Recommendation	<input type="checkbox"/> Object	<input checked="" type="checkbox"/> Do not object	<input type="checkbox"/> Do not object, subject to conditions	<input type="checkbox"/> Further information required
Recommended Conditions				
Recommended Informatives				

Signed: Alan Scott