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Planning and Regulatory Services  
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**Planning Statement following refusal of Planning Application  
19/00812/PPP for the rection of Treehouse and associated walkway for use  
as a Holiday Let**

Site – Sandystones Ancrum Jedburgh TD8 6UP

Applicant – Sandystones Ltd

**Proposal**

To construct a timber framed-frame walkway encompassing trees, leading to a single-storey treehouse on stilts. Trees would be incorporated within the walkway, none would be formally attached to the walkway. The treehouse would be used as a holiday let to cater for the Scottish Borders tourism market, which is in an expansion phase as staycation becomes more popular. The proposed floor area of the tree house would be 45 sqm, housing a studio apartment layout. The treehouse would be aimed at couples and/or families of 4-5.

The design of the treehouse is to be confirmed, but it is thought that it will be a larch clad timber frame with a pitched roof clad in slate. The use of sustainable materials is fundamental to the Treehouses site and situation.

**Diversification**

Sandystones is a relatively small agricultural unit of some 400 acres. It's main agricultural enterprises include the production of beef, cereals, oilseeds, pheasant eggs and free range organic chicken eggs. Current diversifications at Sandystones are wide ranging and all add significantly to the business's performance and viability. Without diversifications, the business would not be able to provide the current 4 full time jobs. The proposed treehouse is a further diversification which aims to further broaden the business' base, creating an additional income stream and further employment.

Tourism is an important facet of the Scottish Borders local economy. This proposal would add to the current offering of accommodation in the Scottish Borders. The treehouse is a niche type of holiday let and we envisage demand will be high.

**Sustainability**

It is important that the proposed treehouse assimilates with its surrounds to provide a low carbon, sustainable holiday house which connects to the Scottish Borders countryside. Construction is to be carried out using sustainable materials. The structure is to be formed with a timber frame above timber stilts. We have had to amend the timber stilts to steel to enable them to withstand the loads applied. These steel Stilts will be clad with timber. The Treehouse will be constructed from timber. The roof is likely to be clad with welsh slate. The external walls are to be clad with timber boarding, probably larch or similar. Sheep's wool insulation is to be used to create a warm, efficient internal environment.

Electricity will be provided via the Sandystones photovoltaic panel array. An existing supply cable is located on the edge of the site.

### **Site servicing for water and foul**

The treehouse will be service by an existing mains water connection already in the vicinity. A private treatment plant will be located on-site to take foul drainage. A suitable tail drain or soakaway will be located in the vicinity of the treatment plant.

Rainwater will be piped to a soakaway. A SUDS system will be employed.

### **Service runs have been marked on the block plan.**

A renewable energy source is to provide heating and hot water to the treehouse.

All of the above are sighted outwith the flood areas and will be capable of function throughout.

### **Impact**

The proposed development is out-with the Natural Scenic Area, there are no listed buildings within the vicinity.

There are no surrounding properties.

The proposed treehouse would be integrated into its surrounds with minimal impact on surrounding flora and fauna. This would be achieved by using suitable construction techniques which minimise ground disturbance so that damage to habitat and tree root systems is avoided. The aim is for the treehouse to reside in harmony with it's surrounds.

A tree survey is to be provided, confirming the current condition of the trees in the vicinity, works required/proposed and the methods used to reduce any impact.

I understand/expect an ecology survey and report will be required.

### **Planning Policy**

#### **SBC LDP 2016**

Within the existing adopted Scottish Borders Council Local Plan, the main policy relevant to this proposal is ED7 Business, Tourism and Leisure Development in the Countryside. This proposal accords with policy ED7 and meets with criteria, as below-

- The development is to be used directly for recreation and tourism appropriate to a countryside location.
- The proposal accords with the Scottish Borders Tourism Strategy and Action Plan.
- The development will respect the amenity and character of the surrounding area.
- There will be no significant impact on nearby uses, particularly housing.
- There are no buildings capable of conversion.
- The impact will be minimised by the scale of the proposal.

Further key policies to which policy ED7 should be cross referenced include policy PMD2 Quality Standard, EP13, IS4 and IS8

PMD2: The proposed development aims to be sustainable, well designed and accessible. The location of the proposed development already links to green space and sits within natural features.

EP13: The proposed development seeks to assimilate itself into the existing surrounds. Trees are to be incorporated within this development. Proposed construction techniques will minimise the risk of harm being caused to the surrounding trees. Minimal lateral digging and foundation formation techniques will be used.

IS4: The impact on the natural and built environment will be minimal. The main access track already exists. Intensification of its use will be relatively minor.

IS8: The development proposed is to take place partly on a flood plain. The proposed treehouse finished floor level will sit 3m above the flood plain ground level on timber stilts. The walkway and access to it are all at least 3m above the flood plain ground level. The stilt construction removes very little of the active flood plain, hence the impacts on flooding by the proposed development would be negligible.

In addition, policies EP1-3 will be relevant but we await comments from the Ecology officer.

### **Scottish Planning Policy 2014**

#### **Managing Flood Risk and Drainage**

Para 255 states-

- A precautionary approach to flood risk from all sources, including coastal, water course (fluvial), surface water (pluvial), groundwater, reservoirs and drainage systems (sewers and culverts), taking account of the predicted effects of climate change;
- flood avoidance: by safeguarding flood storage and conveying capacity, and locating development away from functional flood plains and medium to high risk areas;
- flood reduction: assessing flood risk and, where appropriate, undertaking natural and structural flood management measures, including flood protection, restoring natural features and characteristics, enhancing flood storage capacity, avoiding the construction of new culverts and opening existing culverts where possible; and
- avoidance of increased surface water flooding through requirements for Sustainable Drainage Systems (SuDS) and minimising the area of impermeable surface.

#### **Development Planning**

Para 263. Local development plans should use the following flood risk framework to guide development. This sets out three categories of coastal and watercourse flood risk, together with guidance on surface water flooding, and the appropriate planning approach for each (the annual probabilities referred to in the framework relate to the land at the time a plan is being prepared or a planning application is made):

- Little or No Risk – annual probability of coastal or watercourse flooding is less than 0.1% (1:1000 years) – No constraints due to coastal or watercourse flooding.
- Low to Medium Risk – annual probability of coastal or watercourse flooding is between 0.1% and 0.5% (1:1000 to 1:200 years)
  - Suitable for most development. A flood risk assessment may be required at the upper end of the probability range (i.e. close to 0.5%), and for essential infrastructure and the most vulnerable uses. Water resistant materials and construction may be required.

- Generally not suitable for civil infrastructure. Where civil infrastructure must be located in these areas or is being substantially extended, it should be designed to be capable of remaining operational and accessible during extreme flood events.
- Medium to High Risk – annual probability of coastal or watercourse flooding is greater than 0.5% (1:200 years)
  - May be suitable for:
    - residential, institutional, commercial and industrial development within built-up areas provided flood protection measures to the appropriate standard already exist and are maintained, are under construction, or are a planned measure in a current flood risk management plan;
    - essential infrastructure within built-up areas, designed and constructed to remain operational during floods and not impede water flow;
    - some recreational, sport, amenity and nature conservation uses, provided appropriate evacuation procedures are in place; and
    - job-related accommodation, e.g. for caretakers or operational staff.
  - Generally not suitable for:
    - civil infrastructure and the most vulnerable uses;
    - additional development in undeveloped and sparsely developed areas, unless a location is essential for operational reasons, e.g. for navigation and water-based recreation, agriculture, transport or utilities infrastructure (which should be designed and constructed to be operational during floods and not impede water flow), and an alternative, lower risk location is not available; and
    - new caravan and camping sites.
    - Where built development is permitted, measures to protect against or manage flood risk will be required and any loss of flood storage capacity mitigated to achieve a neutral or better outcome.
    - Water-resistant materials and construction should be used where appropriate. **Elevated buildings on structures such as stilts are unlikely to be acceptable.**

## Planning and Consultee response from application 19/00812/PPP

The consultee responses below were generally supportive of the proposal, those being -

Roads Planning

Environmental Health

Economic Development

Flood Risk Officer

Ecology/Landscape Officer

Access Officer

Further information was required by the Access Officer, Ecology/Landscape Officer and Environmental Health all of which could and generally would, be provided via planning condition.

## Grounds for Refusal of Application

**The planning officer refused the planning application on the following basis (one reason) -**

*“The development is contrary to Policy IS8 of the Local Development Plan 2016 in that the proposal would be within an area of flood risk and potentially place the occupants at an unacceptable risk of flooding”.*

The planning officer has not provided any other reasoning for refusal in his report, therefore, I would suggest he is in agreement that the application meets with all of the other SBC LDP policies, subject to planning condition, where consultees require.

**Further** to above the planning officer also makes further points within his report with regard to flooding.

Planning officer comment in black text, Murray Land & buildings have commented in red text beneath.

- The information provided by the applicant indicates that the floodplain level is 95.25m AOD although it is unclear where this information has been derived and whether a Flood Risk Assessment (FRA) has been carried out.

The original block plan shows levels in relation to a fence post datum 100.00, this is **not** Above Ordnance Datum. A subsequent Flood Risk Study was carried out and submitted to the planning officer in August 2019. In advance of this a topographic survey in AOD was undertaken.

- Nevertheless, holiday accommodation is classed as the most vulnerable and raising the development above the floodplain using stilts is not acceptable under Scottish Planning Policy and SEPA were unable to support these proposals and object in principle to this development.

Agree on vulnerable class for holiday accommodation. The planning officer is **not** correct to say that raising the development above the floodplain using stilts is **not** acceptable under Scottish Planning Policy. As below, the planning directorate have stated that where it can be shown the structure is suitable, development may be supported using stilted construction.

- Given that the provision of the development on stilts would be contrary to Scottish Planning Policy and would not overcome the flood risk to access and egress, it is considered that the proposal cannot be supported as being compliant with Policy IS8.

The proposal is not contrary to Scottish Planning Policy. The wording under SPP Para 263 -Medium to High Risk is '*Water-resistant materials and construction should be used where appropriate. Elevated buildings on structures such as stilts are unlikely to be acceptable*'.

The proposal would overcome the flood risk access and egress because these areas would be 1.5m + above the worst case flooding model, therefore not affected.

It should be noted at this point that the council's Flood Risk Officer was not against the previous proposals subject to suitable engineering solution for the stilts. He states-

*'I would require the applicant to send in the design of their structure to ensure that the walkway piers or any structures that impact stability do not increase flood risk. For example, they are not likely to catch debris or trees that could create a blockage on site.*

*Furthermore, I would require that there are no structures e.g. walkway piers are located within the watercourse.*

*If the above is adhered to, I would have no objections on the grounds of flood risk.'*

The only consultee objection was made by SEPA. Their response to the previous application is below in black text. Murray Land & Buildings response on behalf of Sandystones Ltd is in red text.

We **object** to this planning application in principle on the grounds of flood risk. Please note the advice provided below.

## 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.

The stilts below the treehouse building, of which they form part, are at risk of flooding. Neither the treehouse itself, nor persons within it are or may be being placed at flood risk. The treehouse habitable area, its access/egress and parking area are all 3m above the flood plain ground level, some by natural contour and some by the manmade structure. The subsequent flood study provided by Kaya Consulting, shows that in a worst-case scenario, water levels would rise 1.5m above the existing flood plain ground level, leaving a clear 1.5m between the top of the water flood level and the Finished Floor Level. The statement above, forming point 1.1 by SEPA, is not wholly correct.

- 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. We recommend that alternative locations be considered.

Quite agree, sustainable flood risk management is the avoidance of flood risk in the first instance. The treehouse habitable area, it's access/egress and the parking area are not at risk from flooding due to their location above the flood plain, therefore, this is sustainable flood risk management.

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 therefore wish to consider if this proposal falls within the scope of this Direction.

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.

There is a technical solution. Stilts offer this, subject to suitable engineering.

#### Technical Appendix

1.5 Review of the SEPA Flood Map indicates that the site mostly lies within the 0.5% annual probability (1 in 200-year) flood extent and may therefore be at medium to high risk of flooding from the Ale Water. There is also a small watercourse running through the site and the location of the proposed treehouse accommodation is between the Ale Water and small watercourse.

I accept part of the site resides within the 0.5% annual probability flood extent, that does not mean the habitable area, access/egress or parking area are within it. The structure supporting the treehouse is within the flood area, the treehouse and walkway are significantly above it. There is no small water course running through the site. That shown is the old Mill Laid which does not run and for the most part is dry and infilled with vegetation etc.

1.6 Within Scottish Planning Policy (SPP) holiday accommodation is classed as 'most vulnerable' land use and is generally not suitable within the low (1 in 1000-year) to medium (1 in 200-year) areas of flood risk. SPP also states that stilted accommodation is generally not acceptable within areas of flood risk.

SPP states that most vulnerable uses are not generally suited within Medium to High Risk areas, **not** Low to Medium risk as SEPA say above.

*SPP Most Vulnerable Uses in context of flood risk are as follows- Basement dwellings, isolated dwellings in sparsely populated areas, dwelling houses behind informal embankments, residential institutions such as residential care homes/prisons, nurseries, children's homes and educational establishments, caravans, mobile homes and park homes intended for permanent residential use, sites used for holiday or short-let caravans and camping, installations requiring hazardous substance consent.*

The treehouse is not specifically any of the above, though it does relate in use, which probably means it is to be included within the most vulnerable uses.

The treehouse floor level, walkway and parking area are above the flood plain ground level by 3m, therefore they are not within the medium to high risk flood area. The stilted legs are within the medium to high risk flood area, but this is structure alone, not habitable space, access/egress or parking areas, therefore the risks are not to the occupants or their ability to escape.

- 1.7 The information provided indicates that the floodplain level is 95.25mAOD although it is unclear where this information has been derived and whether a Flood Risk Assessment (FRA) has been carried out. The planning statement indicates that the treehouse will not be at flood risk due to being located on stilts some 3 metres above the predicted floodplain level and that stilts are unlikely to have an impact on floodplain capacity. As noted above, raising development above the floodplain using stilts is not acceptable under SPP and SEPA are unable to support these proposals and we therefore object in principle to this development. Occupants of this treehouse accommodation may be required to be evacuated/rescued during a flood event, thus placing others in danger, and the structure may be damaged where debris is carried by the watercourse.

The levels provided in the original block plan are **not in** Above Ordnance Datum, they are related to a fence post datum, purely to demonstrate the differences in height. A flood risk study report has now been carried out in AOD. The results are conclusive and show the proposed levels to be more than satisfactory in alleviating flood risk to the habitable areas, access and the occupants.

I will deal with the points on flood plain development on stilts and flood plain capacity separately.

*It is not correct to say 'As noted above, raising development above the floodplain using stilts is not acceptable under SPP'. It is correct to say 'SPP also states that stilted accommodation is generally not acceptable within areas of flood risk'.*

**The next question is to ascertain on what basis is stilted accommodation generally not accepted within areas of flood risk. According to the planning directorate the basis of acceptability is suitable engineering of the stilt's capability to withstand a flood event. In addition, the construction should minimise the removal of functional flood plain and provide alternative flood plain area where necessary. This reasoning makes complete sense.**

The correspondence from a senior planning officer at the Scottish Government's Directorate, given in 2014, on a planning case, in Moray,

Scotland, and with relevance to Scottish Planning Policy 2014 para 263, was

**“Please note that paragraph 263 states that generally elevated buildings on structures such as stilts are unlikely to be acceptable. This does not necessarily mean therefore that stilted construction would be unacceptable in every circumstance. The inclusion of the reference to stilts come from a concern over the ability of such construction to withstand flood events. There is recognition however that within this general reference there may be construction techniques that a planning authority may find acceptable”**

**Therefore**, if a suitable engineering solution can be found for the stilts so that they may withstand a flood and the access and egress are all out with the flood risk area, then acceptability can be achieved.

With regards to the flood plain capacity, the installation of stilts will remove very little of the active flood plain. If it were a requirement, additional flood plain area could be provided so that there was no net loss, though the addition provided would be small to match that lost.

If occupants of the treehouse were required to be evacuated in the event of a flood, they could be, via the access walkway and car park area. The treehouse would be built so that it is above the flood risk level and flood waters cannot affect it, therefore, evacuation would not be required. Evacuation would be a choice for the occupants which they could safely make. No one is or would be placed in danger whether they be occupants of the treehouse or other third parties.

The element of structure is generally not a planning matter, it is saved for building control. In this instance I think structure is material to the planning decision because of the reasoning behind acceptable or unacceptable development on stilts under para 263 of SPP. If the applicant can show that a suitable structure capable of withstanding flood waters and debris is achievable, any planning objections on these grounds should be withdrawn. The same would follow for access and egress, if it were the case that these were required from the flood plain. In this case neither are.

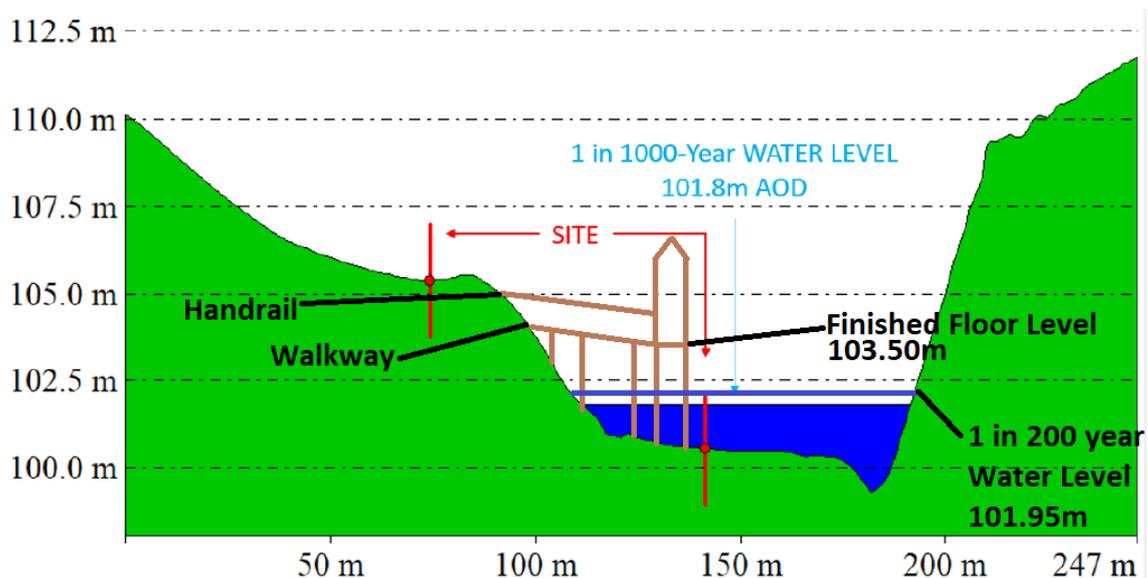
- 1.8 Should the applicant wish to consider an alternative location for the treehouse accommodation then it should be located out with the functional floodplain (1 in 200-year flood extent) and free from flood risk up to the 1 in 1000-year flood events. Safe access and egress should also be ensured out with the floodplain.

The site was chosen for a purpose to which solutions can and have been provided to any of the issues raised. This includes providing safe access and egress for occupants and any services required. The Treehouse site was chosen on the basis that it is within the trees, screened and capable of assimilation within its surrounds. There are no suitable alternative sites.

### Mitigation and reasoning

The flood risk study report provides modelling on a 1 in 200 (including climate change) and 1 in 1000 year water level with respect to flooding from the Ale Water. It clearly shows that water levels would never be within 1.5m of the Finished Floor Level of the Treehouse or Walkway. The access road and parking area are higher than the Treehouse FFL and walkway, therefore they are not at risk from the potential flood waters from the Ale Water either.

The planning officer notes within his previous report that the flood plain ground level is noted as 95.25m AOD. In fact, the levels provided on the block plan within the original planning application were simply levels in relation to a fence post datum of 100.00m, they are not related to Ordnance Datum. Subsequent to this, a full Topographic survey and flood risk study have been undertaken using levels in AOD. An updated block plan using the AOD levels has been included.



Section demonstrating the Finished Floor Level and a 1 in 200 year flood level with climate change Both in AOD.

A letter from a structural engineer is submitted as part of the planning application to show that the stilts are capable of withstanding any flooding forces exerted on them by the Ale Water.