

Carlos Clarke
Planning Department
Scottish Borders Council

Our Ref: 9728
Your Ref: 23/01003/FUL

By email only to: dcconsultees@scotborders.gov.uk

SEPA Email Contact:
planning.south@sepa.org.uk

14 August 2023

Dear Carlos Clarke

Town and Country Planning (Scotland) Acts

23/01003/FUL

**Commercial storage facility comprising 30 no. storage containers with associated works
Former gas works Princes St Innerleithen**

Thank you for your consultation which was received by SEPA on 06 July 2023 in relation to the above application. We understand the reason for consultation is flooding.

Advice for the planning authority

In line with the advice in the [Transitional Arrangements for National Planning Framework 4 letter](#), issued by the Chief Planner, Fiona Simpson, on 8 February 2023 our position and advice given below is based on NPF4 policy.

We **object in principle** to the application and recommend that planning permission is refused. This is because the proposed development may put people or property at risk of flooding which is contrary to national planning policy. Please note the advice provided below.

If 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](#)



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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. Flood risk

- 1.1 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 as a first principle, and this is set out in National Planning Framework 4 (Policy 22).
- 1.2 We therefore **object in principle** to the application and recommend that planning permission should be refused. This is because the proposed development is expected to put people or property at risk of flooding, which is contrary to the duties set out under the Flood Risk Management (Scotland) Act 2009, and the policy principles of National Planning Framework 4.
- 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 In line with National Planning Framework 4 (NPF4) Policy 22, a precautionary approach to flood risk should be taken by avoiding development within flood risk areas or areas at risk of flooding (land or built form with an annual probability of being flooded of greater than 0.5% which must include an appropriate allowance for future climate change). As NPF4 intends to strengthen resilience to flood risk by promoting avoidance as a first principle, new development should therefore be located outside of flood risk areas without the need for flood mitigation measures such as land raising. Development should cause no reduction in floodplain capacity.
- 1.5 We note that the site is a former gas works however we have information from the planning authority that this is an historic use, and we therefore consider the site to be vacant. The site therefore does not fall within the criteria for exceptions under NPF4 Policy 22a and avoidance of the flood risk area is required.

- 1.6 The majority of the site is shown to be at risk of flooding based on the SEPA Future Flood Maps. This indicates that there is a risk of flooding from the Leithen Water. The site is approximately 300 metres upstream of the confluence of the Leithen Water and the River Tweed, and therefore may be at risk of flooding from the River Tweed. You can view the SEPA Flood Maps and find out more about them at [Flood Maps | SEPA - Flood Maps | SEPA](#).
- 1.7 Flood studies of the Leithen Water and the River Tweed were carried out by JBA Consulting on behalf of Scottish Borders Council. The reports and flood maps are available to access here: [Downloads - Borders Flood Studies](#).
- 1.8 The Leithen Water Fluvial Flood Map (Do Minimum, November 2017, DM Outlines, S4, P01) shows flood extents for a range of return periods. Approximately half of the site is shown to be inundated in a 1 in 200 year + climate change event. In addition, the site shown to be surrounded by flooding in smaller return periods.
- 1.9 The climate change event assessed for the Borders Flood Studies in 2017 had a flow uplift of 33%. SEPA's current climate change guidance for land use planning requires that larger rivers (with catchment area >50km²) should be assessed with a climate change flow uplift of 59% to define the flood risk area. Based on the flow estimates outlined in the Innerleithen Appraisal Report (JBA Consulting, December 2018, S4-P02), the resultant climate change flow for the Leithen Water would be greater than the assessed flow for the 1 in 1000 year scenario in the flood study. This means that the extents of the flood risk area would be larger than the 1 in 1000 year extent shown in the Leithen Water Fluvial Flood Map.
- 1.10 In addition, the assessment of the Leithen Water in the Borders Flood Study used a 1 in 30 year event on the River Tweed as the downstream boundary. If we felt it appropriate to request further modelling to be done for the site, we would request that sensitivity analysis is done on the downstream boundary. The extents of various flood events can be seen in 'Tweed (Peebles to Walkerburn) flood risk outlines' sheet 4 of 5 (River Tweed Fluvial Flood Map, Do Minimum, November 2017, S4, P01).
- 1.11 Based on the information available the site is within a flood risk area and the proposal is therefore contrary to NPF4. Any updated modelling, involving a combination of increasing the climate change uplift to current requirements and increasing the level for the

downstream boundary, is likely to show more or all of the site is in the flood risk area of the Leithen Water. We object in principle to the development as it is expected to put people or property at risk of flooding.

2. Other planning matters

2.1 For all other planning matters, please see our [trriage framework and standing advice](#) which are available on our website: www.sepa.org.uk/environment/land/planning/.

Advice for the applicant

3. Regulatory advice

3.1 Details of regulatory requirements and good practice advice, for example in relation to private drainage, 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 local compliance team at: ELB@sepa.org.uk.

If you have queries relating to this letter, please contact us at the email above including our reference number in the email subject.

Yours sincerely

Silvia Cagnoni
Senior Planning Officer
Planning Service

Ecopy to: cgclarke@scotborders.gov.uk;

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 - www.sepa.org.uk/environment/land/planning/](http://www.sepa.org.uk/environment/land/planning/).

**CONSULTATION RESPONSE TO
PLANNING OR RELATED APPLICATION**

Comments provided by	Officer Name and Post:		Contact e-mail/number:	
	EVH - Contaminated Land Officer			
Date of reply	9 th August 2023		Consultee reference: 23/02092/PLANCO	
Planning Application Reference	23/01003/FUL		Case Officer: Carlos Clarke	
Applicant	Mr M Campbell			
Agent	Ferguson Planning			
Proposed Development	Commercial storage facility comprising 30 no. storage containers with associated works			
Site Location	Former Gas Works Princes Street Innerleithen Scottish Borders			
<p><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></p>				
Background and Site description	The above application appears to be proposing the redevelopment of land which was previously operated as part of a gasworks and housed two gasometers. This land use is potentially contaminative and it is the responsibility of the developer to demonstrate that the land is suitable for the use they propose.			
Key Issues (Bullet points)				
Assessment	<p>It is recommended that planning permission should be granted on condition that development is not be permitted to start until a site investigation and risk assessment has been carried out, submitted and agreed upon by the Planning Authority.</p> <p>Any requirement arising from this assessment for a remediation strategy and verification plan would become a condition of the planning consent, again to be submitted and agreed upon by the Planning Authority prior to development commencing.</p>			
Recommendation	<input type="checkbox"/> Object	<input type="checkbox"/> Do not object	<input checked="" type="checkbox"/> Do not object, subject to conditions	<input type="checkbox"/> Further information required
Recommended Conditions	<p>Unless otherwise agreed in writing and in advance by the Planning Authority, prior to any development commencing on site, a scheme will be submitted by the Developer (at their expense) to identify and assess potential contamination on site. No construction work shall commence until the scheme has been submitted to, and approved, by the Council, and is thereafter implemented in accordance with the scheme so approved.</p> <p>The scheme shall be undertaken by a competent person or persons in accordance</p>			

	<p>with the advice of relevant authoritative guidance including PAN 33 (2000) and BS10175:2011 or, in the event of these being superseded or supplemented, the most up-to-date version(s) of any subsequent revision(s) of, and/or supplement(s) to, these documents. This scheme should contain details of proposals to investigate and remediate potential contamination and must include:-</p> <ul style="list-style-type: none"> a) A desk study and development of a conceptual site model including (where necessary) a detailed site investigation strategy. The desk study and the scope and method of recommended further investigations shall be agreed with the Council prior to addressing parts b, c, d, and, e of this condition. <p>and thereafter</p> <ul style="list-style-type: none"> b) Where required by the desk study, undertaking a detailed investigation of the nature and extent of contamination on site, and assessment of risk such contamination presents. c) Remedial Strategy (if required) to treat/remove contamination to ensure that the site is fit for its proposed use (this shall include a method statement, programme of works, and proposed validation plan). d) Submission of a Validation Report (should remedial action be required) by the developer which will validate and verify the completion of works to a satisfaction of the Council. e) Submission, if necessary, of monitoring statements at periods to be agreed with the Council for such time period as is considered appropriate by the Council. <p>Written confirmation from the Council, that the scheme has been implemented completed and (if appropriate), monitoring measures are satisfactorily in place, shall be required by the Developer before any development hereby approved commences. Where remedial measures are required as part of the development construction detail, commencement must be agreed in writing with the Council.</p> <p>Reason: To ensure that the potential risks to human health, the water environment, property, and, ecological systems arising from any identified land contamination have been adequately addressed.</p>
<p>Recommended Informatives</p>	

**CONSULTATION RESPONSE TO
PLANNING OR RELATED APPLICATION**

Comments provided by	Flood & Coastal Management	Contact e-mail/number:
Officer Name and Post:	Paul Grigor Flood Engineer	pgrigor@scotborders.gov.uk 01835 826663
Date of reply	3 rd August 2023	Consultee reference: 3495
Planning Application Reference	23/01003/FUL	Case Officer: Carlos Clarke
Applicant	Mr M Campbell	
Agent	Ferguson Planning	
Proposed Development	Commercial storage facility comprising 30 no. storage containers with associated works	
Site Location	Former Gas Works Princes Street Innerleithen Scottish Borders	
<p><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></p>		
Background and Site description		
Key Issues (Bullet points)		
Assessment	<p>In terms of information that this Council has concerning flood risk to this site, I would state that The Indicative River, Surface Water & Coastal Hazard Map (Scotland) known as the “third generation flood mapping” prepared by SEPA indicates that part of 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 one year.</p> <p>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.</p> <p>Due to copyright restrictions, I cannot copy the map to you. If the applicant wishes to inspect the maps, they are publicly available to view at https://map.sepa.org.uk/floodmaps.</p> <p>The Council have undertaken some detailed flood modelling of Innerleithen which provides a more accurate assessment of flood risk. The modelling outputs for this area show the southern half of the site to be at risk from flooding.</p> <p>The proposed land use for storage and distribution is considered a Least Vulnerable Use under the SEPA Flood Risk and Land Use Vulnerability Guidance Land use vulnerability guidance (sepa.org.uk). However, the concern with such a proposal is the loss of functional flood plain and the displacement of flood water in the vicinity of residential properties. Should the applicant wish to develop the full site, then this would raise an objection from the Flood team without a Flood Risk Assessment showing the proposed development has a negligible impact on flood risk. Should the number of storage containers be reduced and confined to the northern half of the site, then I would be able to look more favourably upon this proposal.</p>	

	<p>As matters stand, there is a holding objection due to concerns over flood risk.</p> <p>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.</p>			
Recommendation	<input type="checkbox"/> Object	<input type="checkbox"/> Do not object	<input type="checkbox"/> Do not object, subject to conditions	<input checked="" type="checkbox"/> Further information required
Recommended Conditions				
Recommended Informatives				

**CONSULTATION RESPONSE TO
PLANNING OR RELATED APPLICATION**

Comments provided by	Roads Planning Service		
Officer Name, Post and Contact Details	Alan Scott Senior Roads Planning Officer		ascott@scotborders.gov.uk 01835 826640
Date of reply	5 th October 2023	Consultee reference:	
Planning Application Reference	23/01003/FUL	Case Officer: Carlos Clarke	
Applicant	Mr M Campbell		
Agent	Ferguson Planning		
Proposed Development	Commercial storage facility		
Site Location	Former gasworks, Princes Street, Innerleithen		
<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 can confirm that the additional information supplied by the applicant has addressed the issues previously raised. As such, I am able to support the 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: DJI