



Case reference	NA-SBD-053
Application details	Erection of 2 No distilleries with associated visitor centres, bottling hall, maturation warehousing, office, gatehouse with associated roads and infrastructure, and change of use of hotel to form office and staff accommodation.
Site address	Land north of former Jedforest Hotel and Jedforest Hotel (now known as Mossburn House) Jedburgh, Scottish Borders
Applicant Determining Authority	Jedforest BV, Per Mr Finlay Calder Scottish Borders Council
Reason(s) for notification	Category 2 (objection by SEPA)
Representations	3 plus Jedvalley and Southdean Community Council
Date notified to Ministers Date of recommendation	6 November 2016 but not fully documented until 7 December 2016 25 January 2017
Decision / recommendation	Clear

Description of Proposal and Site:

- The proposal is for the erection of 2 distilleries with associated visitor centres, bottling hall, maturation warehousing, office, gatehouse with associated roads and infrastructure, and change of use of hotel to form office and staff accommodation. The development is proposed to be phased in two parts.
- The site is located in a countryside location, approximately 5km to the south of Jedburgh and is situated at the foot of a valley. The Jed Water lies adjacent to the eastern, northern and southern boundaries of the site. The A68 road lies to the west.
- The site and former hotel building (Mossburn House) have had previous planning consents including: siting/retention of static caravans (2001, 2008 2011), change of use from hotel to dwellinghouse (2009), external alterations and refurbishment of hotel for corporate and domestic use (2014) and external alterations (2015).

EIA Development:

- An Environmental Statement was submitted by the applicant and has been considered by the Council.

Consultations and Representations:

- SEPA objects to the proposal on the grounds that part of the site lies within a medium to high risk flood area, the 0.5% annual probability (1 in 200 year) flood extent, and that it may place buildings and persons at flood risk contrary to Scottish Planning Policy (SPP). They have recommended that the development is repositioned outwith the 0.5% annual probability flood extent, and would remove their objection on this basis.
- SEPA's objection concerns the south east corner of the site. To enable development in this area the applicant proposes to land raise the site and provide compensatory flood storage. SEPA are unable to support land raising on a greenfield site and also object on the grounds that they do not consider this to be a sustainable approach to managing flood risk. SEPA do not raise any objections to the proposed finished floor levels of the buildings.
- The Council's Flood Risk Officer objects to the proposal on similar grounds to SEPA and also recommends that the development is located outwith the 0.5% flood extent. They are unable to support landraising on an undeveloped greenfield site, they do not consider land raising to be a sustainable approach to managing flood risk and are of the view that the SPP principle of protecting the functional flood plain should be adopted. With regard to the impacts of the proposed land raising the Council's Flood Risk Officer notes that the Flood Risk Assessment (FRA), shows an increase in flood levels adjacent to the site up to 0.05m for a 1 in 200 year flood event.
- The Council's Flood Risk Officer also objects to a proposed flood bund in the south east corner of the site, which is sited to protect the river in the event of spillage or fire incident. The Council's Flood Risk Officer considers this to be the creation of an informal flood defence and highlights the Flood Risk Assessment lacks information on this aspect of the proposal.
- SEPA also objected on grounds of regulatory matters, including Pollution Prevention and Control (PPC) and groundwater ecology. This includes the lack of clarification of where water from the bund will go in the event of a spillage or fire.
- Following notification to Scottish Ministers, the Scottish Government's Managing Flood Risk team were consulted. They raise concerns about the proposal and recommend that the application is called-in because of the precedent it might set in allowing development to go ahead on undeveloped land within the 0.5% annual probability flood extent. They have noted SEPA's and the Council's Flood Risk Officer's points of objection and the reasoning in the Council's committee report which has led to the application being approved. They highlight that only part of the site is within the 0.5% flood extent and consider that compensatory storage is to be provided for the proposed land raising. They also highlight that the FRA appears to indicate that the development would only have only a minor effect on floodplain conveyance. However, their main concern is the precedent that this proposal would set for other developments which might reduce the floodplain in a piecemeal fashion.
- No objections were received from any other statutory consultees. SNH had initially objected but removed their objection following amendments made to the scheme and the inclusion of planning conditions to address their concerns.

- Two representations were received by the planning authority from neighbouring properties which highlighted a range of concerns with the proposals, including amenity impact upon properties. The planning authority have fully considered these objections within their committee report. Ministers received a letter from an individual opposing the proposal.

Assessment:

1. The Council are minded to grant planning consent for this proposal against the advice of SEPA and the application has been duly notified to Scottish Ministers as a result of that objection. SEPA object as part of the proposal is located in an area of medium to high flood risk, the 0.5% annual probability (1 in 200 year) flood extent. SEPA have recommended repositioning the development outwith the 0.5% flood area and also oppose the principal of land raising.
2. In determining this application the Council has fully considered the flood risk objections made by SEPA and their own flood risk officer, alongside development plan policy and material considerations. They consider that the proposal represents a significant economic and tourism development and when assessed against development plan policy, provides sufficient justification for this countryside location.
3. With regards to the flood risk objections, the Council have considered that only a small proportion of the development site lies within the 0.5% flood risk zone, and is in their view contrary to development plan policy on flood risk and SPP. They acknowledge that flood risk information submitted alongside the application demonstrates that compensatory flood storage will be provided to offset the proposed land raising. They consider that, on balance, having regards to the relative isolation of the site combined with the proportionately small impact on the flood plain the proposal is acceptable when considering economic and employment benefits of business and growth. They have therefore recommended granting permission subject to conditions.
4. Both SEPA and the Council's Flood Risk Officer also raised objections to the proposed bund. The Council's report clarifies that the bund is necessary for PPC measures and that in the event of approval the applicant has to submit a PPC application to SEPA.
5. Following notification the Scottish Government's Managing Flood Risk team recommended calling in the application on the grounds that it could set a precedent by allowing development on greenfield land in 0.5% (1:200 year) flood zones and piecemeal loss of the floodplain. With regards to the proposed landraising they note that compensatory storage has been provided, only part of the site is within the 0.5% flood area and the FRA appears to indicate that the development would have only a minor effect on floodplain conveyance. They have acknowledged the Council's Committee Report and the reasoning of the Council to approve the application, including the flood risk design and mitigation measures, the small proportion of flood plain affected, combined with the relative isolation of the site. They highlight though, that such areas (of floodplain) can still be important for protecting populated areas upstream or downstream.

6. The key consideration in this case is therefore whether this application should be considered to be of national importance to warrant call-in by Scottish Ministers based on the flood risk objections from SEPA and the recommendation from the Scottish Government's Managing Flood Risk Team. SEPA's objection relates to the principal of locating part of the development within the 0.5% (1:200 year) flood risk area, and the principal of land raising within a greenfield/undeveloped area. The Scottish Government Flood Risk Team's main concern is the precedent that this proposal would set for other developments which might reduce the floodplain in a piecemeal fashion.
7. With regards to the location of the proposal and principal of development, the policy principles of managing flood risk and drainage within Scottish Planning Policy highlight that the planning system should promote flood avoidance by safeguarding flood storage and conveying capacity and locating development away from functional flood plains and medium to high risk areas. SPP (Paragraph 256) sets out that the planning system should prevent development that would have a significant probability of flooding, or would increase the probability of flooding elsewhere and that piecemeal reduction of the functional floodplain should be avoided given the cumulative effects of reducing storage capacity.
8. With regards to the principal of land raising, SPP states that land raising should only be considered in exceptional circumstances, where it is shown to have a neutral or better impact on flood risk outside the raised area and that compensatory storage may be required.
9. The Council, in determining this application have fully considered flood risk and acknowledge that as a small part of the application site lies within the 0.5% (1:200 year) flood extent this is contrary to SPP and local development plan policy on flood risk. Turning to land raising they acknowledge that compensatory storage will be provided and this would only have a proportionately small impact on flood plain conveyance. In arriving at the decision to approve the application, they have considered that the economic and employment benefits the proposal merit approval of the application and that its location is justified.
10. In light of the above it is not considered necessary to call in this particular application. The views of SEPA, and the Scottish Government's Flood Risk team are noted on the principal of development in the floodplain, land raising, precedent and the piecemeal reduction of floodplain. However, each planning application should be assessed on its own merits. When taking into consideration the relatively small area of floodplain affected, the offsetting of land raising with compensatory flood storage and the predicted small impact on flood plain conveyance alongside the Council's decision to approve the application on economic and tourism grounds, it is considered that this particular proposal does not raise issues of national importance to warrant intervention by Scottish Ministers.

Decision/Recommendation:

- It is recommended that the application be cleared back to Scottish Borders Council.

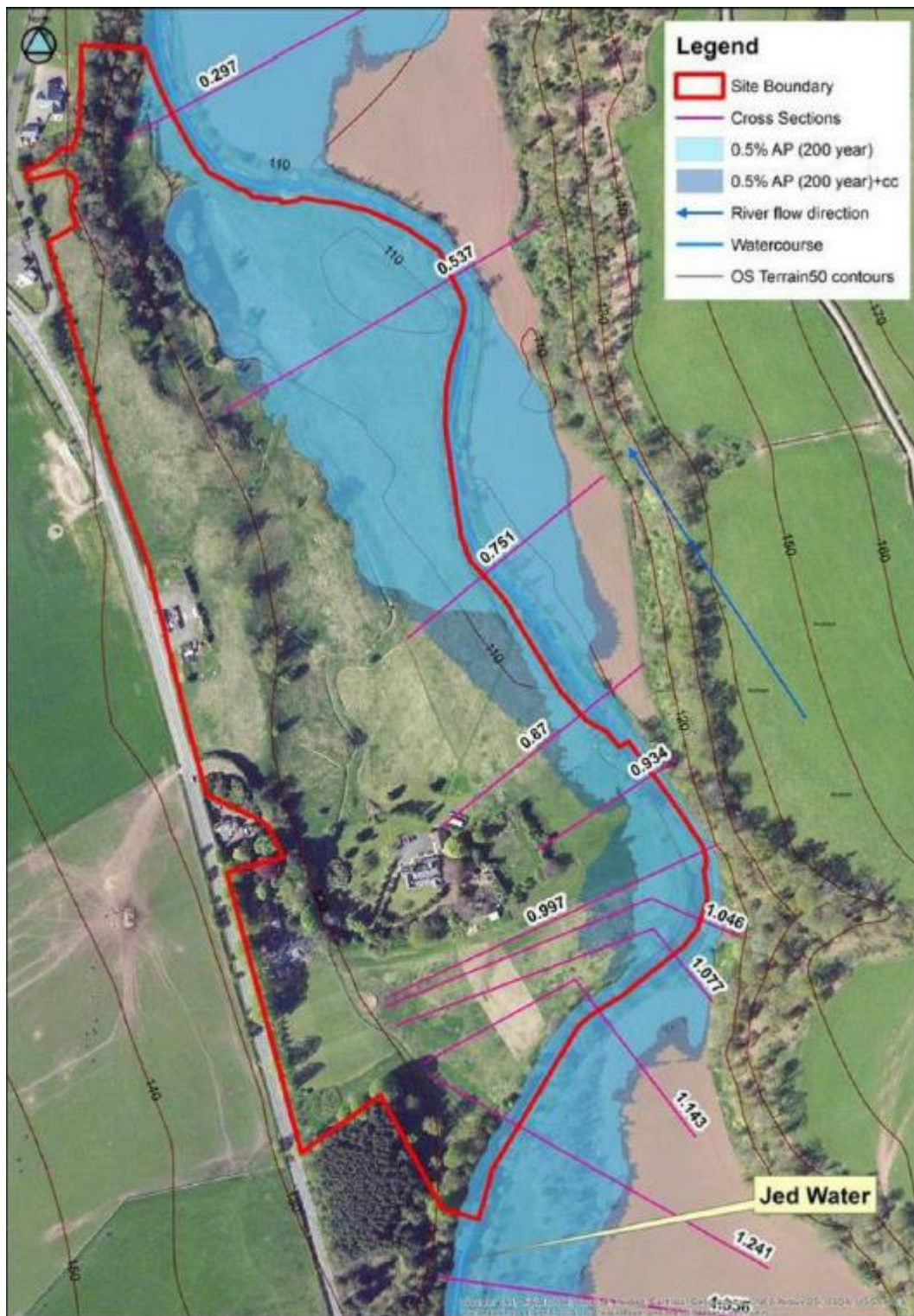
Proposed Site



Finalised Landscape Masterplan – Showing Location of Proposals



Flood Risk Information Submitted Alongside Application – Showing 0.5% (1:200 year) flood extent with and without climate change. South East Area of the site shows area at risk of 0.5% flood extent.



Flood Risk Information Submitted Alongside the Application – Showing Post Development flood risk to the site following proposed landraising. Area of compensatory storage also shown.

