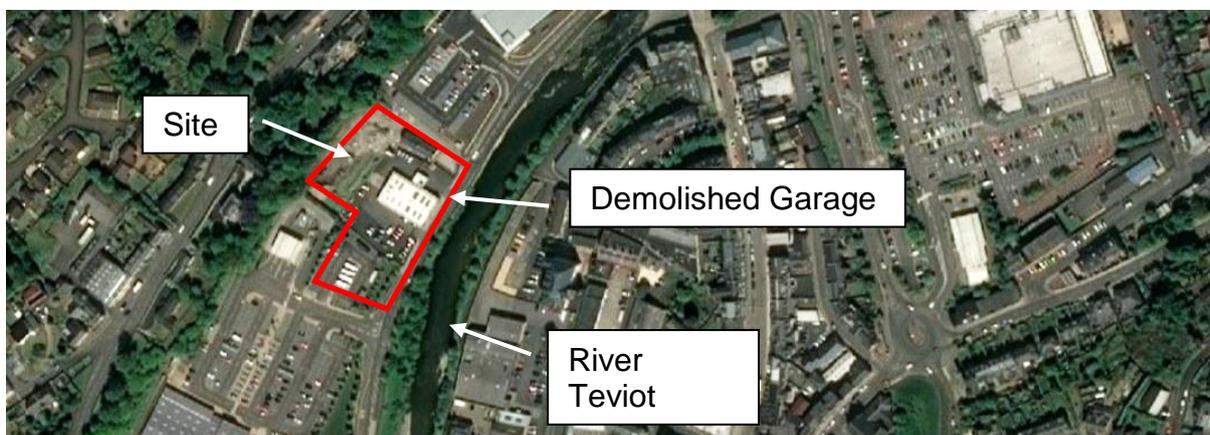




Case reference	NA-SBD-056
Application details	Erection of Class 1 retail store and restaurant with drive thru and takeaway facilities
Site address	Land West of Store J and R Elliot Ltd, Commercial Road, Hawick
Applicant	Image Estates Queen Street Ltd
Determining Authority	Scottish Borders Council
Local Authority Area	Scottish Borders Council
Reason(s) for notification	Category 2
Representations	3
Date notified to Ministers	14 January 2020 but not fully documented until 15 January 2020
Date of recommendation	7 February 2020
Decision / recommendation	Call in

Description of Proposal and Site:

- Full planning permission (19/00509/FUL) is being sought for the erection of a Class 1 retail store and restaurant with drive thru and takeaway facilities. The site occupies land immediately to the west of Commercial Road in Hawick, Scottish Borders. It is partially within the town's designated Town Centre and is adjacent to a Conservation Area. The River Teviot lies immediately below Commercial Road to the east (Figure 1)
- The eastern section of the application site is a former car sales premises which has recently been demolished. The site is part of a larger site that is allocated for redevelopment within the Scottish Borders Council Local Development Plan 2016.



EIA Development.
Figure 1 – Site Location and Wider Site Context (zoom earth)

- Scottish Borders Council sent its EIA screening opinion to Scottish Ministers following notification. The Council determined that the development is unlikely to have a significant environmental effect and concluded that an EIA was not required.

Consultations and Representations:

- The Scottish Environmental Protection Agency (SEPA) object to this application in principle, on the grounds that it may place buildings and persons at flood risk, contrary to Scottish Planning Policy (SPP).
- The Council's Flood Protection Section has not objected to the development.
- The Council's Hawick Flood Prevention Scheme Section has not objected to the development.
- The Scottish Government's Flood Risk Management Team have recommended that the application be called in.
- Three objection representations were made on this application but none related to flooding concerns.

Assessment:

1. This planning application has been notified to Scottish Ministers because Scottish Borders Council (SBC) is minded to grant planning permission against the advice of SEPA. SEPA object in principle to the development because of its location in the functional floodplain.
2. The site is due to benefit from the Hawick Flood Protection Scheme (HFPS) which is due to commence construction in spring 2020 and is scheduled to be completed in late 2022 and would offer the site protection from a 1 in 75 year flood event.
3. SEPA note that the application site currently lies within the medium likelihood (1 in 200 year) flood extent on the SEPA flood map and is therefore, at a medium to high risk of flooding. SEPA also note that additional modelling undertaken as part of the HFPS identified that the majority of the site may be at risk during a 1 in 25 year flood event, with part of the site at risk during a 1 in 10 year flood event. SEPA highlight that the site has a history of flooding, as it flooded in 2005 and 2015.
4. SEPA raise concern about the significant land-raising proposed to achieve the required finished floor and car park levels, as although there is no increase in the vulnerability of land use, land-raising within the site would result in the loss of functional floodplain in an area that is already vulnerable to flooding. Therefore, SEPA considers that the development does not meet the requirements of SPP.
5. SEPA also raise concerns that the site is within a 1 in 200 year functional floodplain and although the proposed HFPS will offer the site protection up to a 1 in 75 year flood event, the site will flood during events which exceed this. SEPA state that overtopping, or a breach of the proposed HFPS would result in flooding of a more

rapid and unexpected nature than there would be currently without defences, and that floodwater trapped behind defences is likely to be more prolonged and result in increased damages.

6. SBC in its committee report say that the potential flood risks have been considered in detail by the Council's Flood Prevention Section, by SEPA and by the Hawick Flood Protection project team. Additionally, SBC also state that given the overlap and implications for the HFPS, the HFPS project team have also commissioned its own Flood Risk Assessment, which has provided the most detailed information about the likely impacts and potential for mitigation.
7. The Council are of the view that SEPA identifies the site's presence within the functional flood plain as the basis for its objection and that SEPA's concerns would be justified if the development were to go ahead without the HFPS first being in place. However, SBC state that the HFPS project team have provided clear advice that it is able to directly accommodate the proposal within its calculations for the construction of the HFPS
8. The Council's Flood Protection Section have stated that they do not object to the development on the basis that the HFPS project team consider that there is sufficient capacity available to allow for the proposal to be accommodated acceptably by, and within, the forthcoming HFPS.
9. Overall, the Council consider that SEPA have not given sufficient weight to the extent and detail of work that has informed the assessments of the HFPS and the Council's Flood Prevention Section in the specific context of this proposal. Therefore, the Council state that SEPA's objection is outweighed by the advice of the Flood Prevention Section and HFPS project team.
10. SBC have stated that it would be reasonable to require that the development should be progressed, in conjunction with a timetable and programme which are first agreed with the HFPS project team. This is to ensure that the development and the scheme can progress in such a way that one does not undermine the efficiency or safety of the other and to ensure there would be no unacceptable flood risk impacts on site, or within the surrounding area. This has been attached as a condition within the committee report.
11. The Scottish Government Flood Risk Management Team (FRMT) have noted SEPA's concerns about the significant land raising and highlight that 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 areas and that compensatory storage may be required.
12. The FRMT state that the proposed development is anticipated to flood in 1 in a 200 year event and a 1 in 200 year plus climate change flood event and whilst this will have a limited impact on the new commercial buildings themselves, the flood maps supplied as part of the flood risk assessment show that the flood risk within the wider site area could increase by up to 0.34m during a 1 in 200 year flood event due to the proposed land raising. The FRMT are of the view that the increased flood risk to Commercial Road and surrounding sites outwith the

development has not been addressed and that no compensatory storage has been proposed to mitigate the increased flood risk due to the development.

13. Overall, the FRMT consider that the planning application should be called in as there are genuine issues of national importance that warrant ministerial consideration.
14. Based on the information submitted, the proposal gives rise to significant concerns over flood risk. It is considered that inadequate justification has been given for departing from national policy in this instance. It is also considered the way in which flood risk has been assessed raises issues of national importance due to the potential impact of increased flood risk in the surrounding area and to neighbouring sites. We therefore consider that this application would benefit from further scrutiny by Scottish Ministers.

Decision/Recommendation:

- It is recommended that this application be called in.