



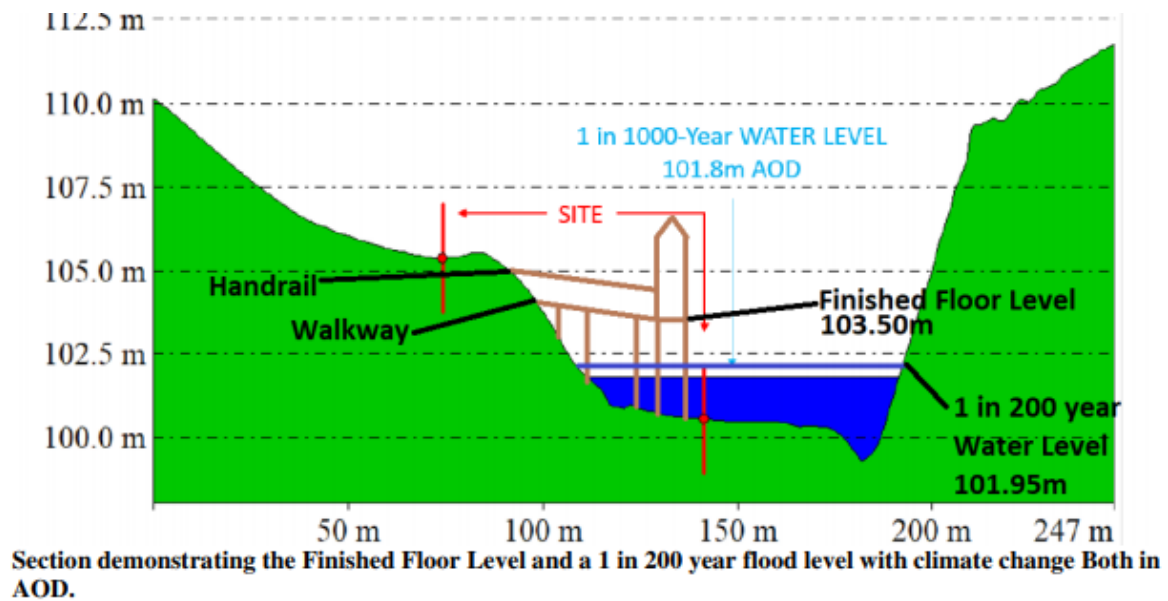
Case reference	NA-SBD-058
Application details	Erection of treehouse and walkway for use in holiday let accommodation
Site address	Land South West of Sandystones Farmhouse, Ancrum, Jedburgh
Applicant	Sandystones Ltd
Determining Authority	Scottish Borders
Local Authority Area	
Reason(s) for notification	Category 2 (Objection by Government Agency) (SEPA)
Representations	NIL
Date notified to Ministers	18 August 2020
Date of recommendation	29 September 2020
Decision / recommendation	Clear

### Description of Proposal and Site:

- Planning permission in principle is sought for the erection of holiday let accommodation at this rural site in the Scottish Borders. A single treehouse structure would be constructed, which would be used as holiday accommodation.
- Permission was refused under delegated powers (Planning Application 20/00132/PPP). The reason for refusal was that the proposal would be within an area of flood risk and potentially place the occupants at an unacceptable risk of flooding.
- The Local Review Body of Scottish Borders Council have reviewed the case and plan to overturn this decision and grant planning permission.
- A previous planning application for the same development, on the same site (ref: 19/00812/PPP) was refused in November 2019 by the Council on flood risk grounds.

### EIA Development:

- The site area is below the 1 hectare threshold in Schedule 2, 12 (e) applicable for camping and caravanning sites. Scottish Ministers are therefore satisfied that an EIA was not required for this proposed development.



### Consultations and Representations:

- SEPA object to the application on flooding grounds.
- The Flood Prevention Officer of Scottish Borders Council advised that given the risk of flooding and lack of flood free access and egress directly from the treehouse structure they were unable to support the development in this location.
- Following notification to Scottish Ministers, Flood Risk Management Team (FRMT) colleagues within Scottish Government were consulted on the application. They do not recommend that Ministers call in the planning application.

### Assessment:

1. This planning application has been notified to Ministers because the Local Review Body of Scottish Borders Council are minded to grant planning permission for the proposals against the advice of SEPA, who objected to the application on flood risk grounds.
2. SEPA objected to the proposed development on the grounds that it may place buildings and persons at flood risk, contrary to Scottish Planning Policy. Given the location of the proposed development within the functional floodplain SEPA do not consider that it meets with the requirements of Scottish Planning Policy. SPP states that "Elevated buildings on structures such as stilts are unlikely to be acceptable". SEPA recommends that alternative locations be considered. SEPA had also objected to the previous 2019 planning application that was refused by the council.
3. The council's Flood Prevention Officer had advised that given the risk of flooding and lack of flood free access and egress directly from the treehouse structure they were unable to support the development in this location. The officer advised that the development should be located out with the 1:1000 year floodplain due to the classification of holiday let accommodation as a 'most vulnerable use' within SEPA's Land Use Vulnerability Guidance.

4. Following the refusal, further flood risk submissions were made by the applicant to the Local Review Body (LRB). The LRB were of the opinion that the applicant's submissions, including the 'Flood Risk Assessment', had addressed the flood risk at the site and that the building and access walkway would be over a metre above the identified 1 in 200 year flood risk with freeboard, allowing for appropriate escape. The LRB were not persuaded by SEPA's requirement for protection against any higher level of flood risk such as 1 in 1000 year event. They considered that the building and its support structure could be designed to sufficient tolerance to withstand flood impacts and that this would be a matter for assessment at building warrant stage. The LRB did not consider that there was a more appropriate site for development of a treehouse and recognised that the site was suited for the purpose, involving riparian woodland and a former mill lade. They resolved to allow the Review and approve the development, subject to conditions including a building finished floor level and walkway level set at a minimum of 102.55m AOD.
5. The relevant watercourse affecting the site is the River Ale. The Flood Risk Assessment submitted has proposed mitigation measures which seek to minimise the flood risk to the structure and to alleviate all of the concerns in the SEPA and SBC Flood Team objections. The treehouse will be situated at least 1.5 metres above the peak 1 in 200 year plus climate change water level, which will be above the 1 in 1000 year flood level, and as such, the accommodation area will not be affected by flooding at these levels of flood event.
6. With the mitigation measures proposed, the FRA states there would be no flood risk to the accommodation and safe access and egress would be available. Scottish Planning Policy states that stilted structures are unlikely to be acceptable. It is proposed that a qualified structural engineer will be used to design the structure in order to mitigate the concerns with regards to the structural stability of the stilted structure and the subsequent flood risk associated with its failure. Given the design of the structure, it is not anticipated that there will be any significant reduction in flood plain storage and subsequent increased risk downstream.
7. The conditions that the LRB intends to attach to the permission include two mitigation measures outlined in the "Flood Risk Assessment", referencing the finished floor level and walkway and occupation restrictions.
8. FRMT colleagues advise that given the small-scale nature of the proposal; the low potential flood risk impacts; and on the basis that the proposed mitigation measures outlined in the "Flood Risk Assessment" are followed, it is not considered that the proposal raises issues of a national interest.
9. Taking into account all the above information it is considered that the flooding issues raised by this development do not amount to a national issue that would merit intervention by Ministers.

**Decision/Recommendation:**

- Clear.