



Case reference	NA-SBD-055
Application details	Erection of dwellinghouse
Site address	J Rutherford workshop Rhymers Mill, Mill Road, Earlston
Applicant	Austin Travel
Determining Authority	Scottish Borders Council
Local Authority Area	
Reason(s) for notification	Category 2 (Objection by Government Agency) (SEPA)
Representations	1 plus Earlston Community Council
Date notified to Ministers	15 November 2018
Date of recommendation	29 November 2018
Decision / recommendation	Clear

Description of Proposal and Site:

- Planning permission (18/01090/FUL) is being sought for the erection of a one-and-a-half story dwellinghouse that will front onto Mill Road, Earlston, Scottish Borders. The Leader Water is to the south of the site.
- The site (figure 1) is situated on the corner of Mill Road and Rhymers Avenue and formed part of the former J Rutherford's vehicular and repair premises. The site is now vacant, but does include an existing former workshop which is included in the boundary of the proposed residential property. There are residential properties to the north, east and west of the site.
- The remaining Rutherford's buildings to the south west have been converted into a coach depot and there is a current planning application to change the use of the remainder of the Rutherford's site into a bus depot.
- Although the site is non-allocated, it is within the development boundary for Earlston. This means housing can be approved if it meets certain LDP criteria.

EIA Development:

- The Council in their notification to Scottish Ministers stated that the application was screened for EIA and it was determined an EIA was not required.

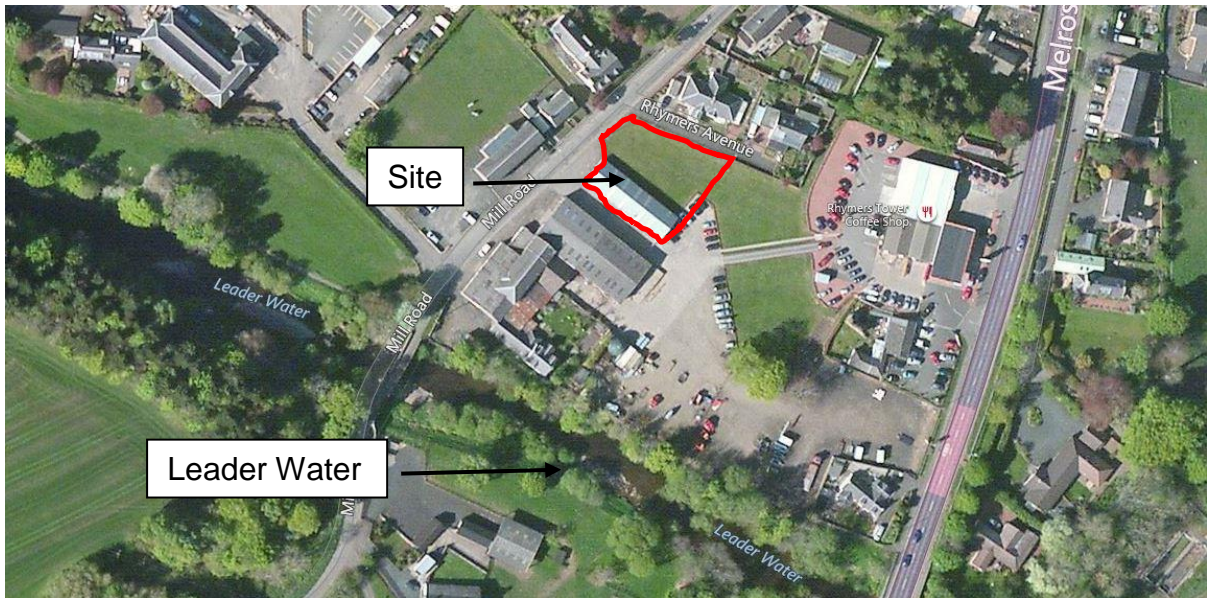


Figure 1 - Site Location (Bingmaps)

Consultations and Representations:

SEPA

- Scottish Environmental Protection Agency object on the grounds that the proposed development may place buildings and persons at flood risk, contrary to Scottish Planning Policy (SPP).

Council's Flooding Officer

- The committee report highlights that the Council's Flooding Officer has no objections to the proposal on the basis that a number of flood protection measures are put in place.

Scottish Government Flood Policy Team

- Following notification to Scottish Ministers, the Scottish Government Flooding Policy Team were consulted and consider that the proposed development does not raise any issues of national importance that would warrant Scottish Ministers calling it in.

Other

- Earlston Community Council wanted to have their concerns noted regarding SEPA's comments and the impact the house could have on nearby properties.

- The owner of a nearby property also raised concerns regarding the application but as these are not related to flooding they will not be examined further in this assessment.

Assessment:

1. As SEPA object on flood risk grounds, the application has been notified to Ministers to ascertain whether there are any issues of national importance which warrant them calling in the application for their own determination.
2. A previous application (16/00385/FUL) to develop a dwellinghouse at this site was refused by the Council in 2016 as SEPA and Council's Flooding Officer shared concerns that the development would be liable to unacceptable flood risk.
3. The case was then subsequently reviewed by Local Review Body (LRB). At review, the LRB sought further contributions to provide clarity on the discrepancies between the flood risk assessment and the finished floor levels that would be required for the proposed development to be mitigated against a 1 in 200 year flood event. As a result of the further contributions submitted, the Council's Flooding Officer removed their objection to the proposal and the LRB concluded that flooding was no longer an issue for the application. However, the LRB subsequently refused permission on other grounds.
4. The committee report highlights that the same flood risk information has been submitted with this application, as was provided to the LRB in the previous application. The Council's Flood Officer is still also of the same view that the development is within the functional floodplain and is at a medium to high risk of flooding.
5. However the Council's Flood Officer also states that they have no objection to the proposal, providing that the following mitigation measures are put in place: the finished floor levels of the building are set to a level that will protect the development from a 1 in 200 year (+freeboard level) flood event; the ground levels surrounding the dwelling are designed to convey overland flow away from the development, and; drainage measures are considered to intercept overland flow. These mitigations measures have been attached as a condition to the application.
6. SEPA maintain their objection in principle to the proposed development as they consider that the development is within the functional floodplain. As a result they state that the proposed development may place buildings and persons at flood risk, which is contrary to SPP.
7. The Scottish Government Flood Policy Team (FPT) do highlight that they have some slight concerns. Namely: that the development is being built on the functional flood plain which is contrary to SPP; that although the development can be designed to reduce the risk of flooding it cannot remove the risk entirely, and; there is little information on safe access and egress routes from the site if it was flooded. However, overall, the FPT of the view that these concerns do not raise

issues of genuine national importance that would warrant intervention by Scottish Ministers.

8. In light of the above information and the small scale of the development, it is considered that that this proposal does **not** raise any issues of national importance to warrant intervention by Scottish Ministers.

Decision/Recommendation:

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