



Case reference	NA-SBD-057
Application details	Residential development, demolition of stables, access and associated works
Site address	Land North East of the Lodge, Philiphaugh Mill, Ettrickhaugh Road, Selkirk
Applicant	Moyle Land & Development Ltd
Determining Authority	Scottish Borders Council
Local Authority Area	
Reason(s) for notification	Objection by Government Agency (SEPA)
Representations	12
Date notified to Ministers	17 March 2020 but not fully documented until 2 April 2020
Date of recommendation	1 June 2020
Decision / recommendation	Clear

Description of Proposal and Site:

- The application is for planning permission in principle for residential development with associated works and new access. An indicative site plan shows that the site would be developed for six detached dwellings.
- The site is located on the western edge of Selkirk in the Scottish Borders. The south and east of the site is bound by Ettrick Water Mill Lade which served Philiphaugh Sawmill. Further south and beyond the Mill Lade is the Ettrick Water.
- The application site is located within SEPA's 1:200 year flood map and is at medium to high risk of flooding from the Ettrick Water. The site is also considered to be at risk from the Mill Lade (A man made water channel). The site is protected by the Selkirk Flood Protection Scheme. This offers protection from a 1:200 year flood event plus 20% allowance for climate change. SEPA's flood maps do not consider Selkirk Flood Protection Scheme or show the area(s) defended by the scheme.
- A previous outline planning application for 8 dwellinghouses on the site was refused on 21 November 2005 as it was considered the proposal would be contrary to the Approved Structure Plan 2001-2011 in that there is a serious risk of flooding to the development site. The site was previously allocated for housing in the Ettrick and Lauderdale Local Plan 1995.
- An adjacent site, Philiphaugh Mill, was put forward for residential development in the 2016 LDP. However, the Reporter recommended that the site be removed from the plan on the basis of SEPA's flooding advice. SEPA have subsequently published further advice on development behind flood protection schemes, which is relevant for consideration of this case.

Figure 1: Indicative site layout.
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Figure 2: LDP Settlement Boundary (Black line) and Planning Application Site boundary (Yellow, marked ★). © Ordnance Survey / Scottish Borders Council

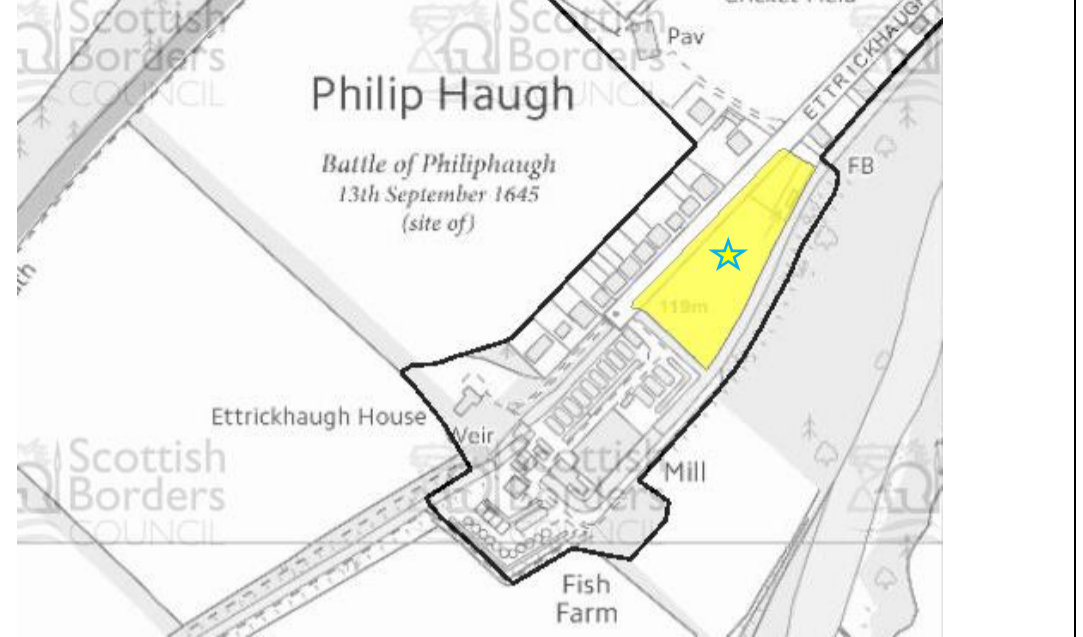


Figure 3: Philphaugh Battlefield.
© HES / Ordnance Survey. (Yellow, marked ★).

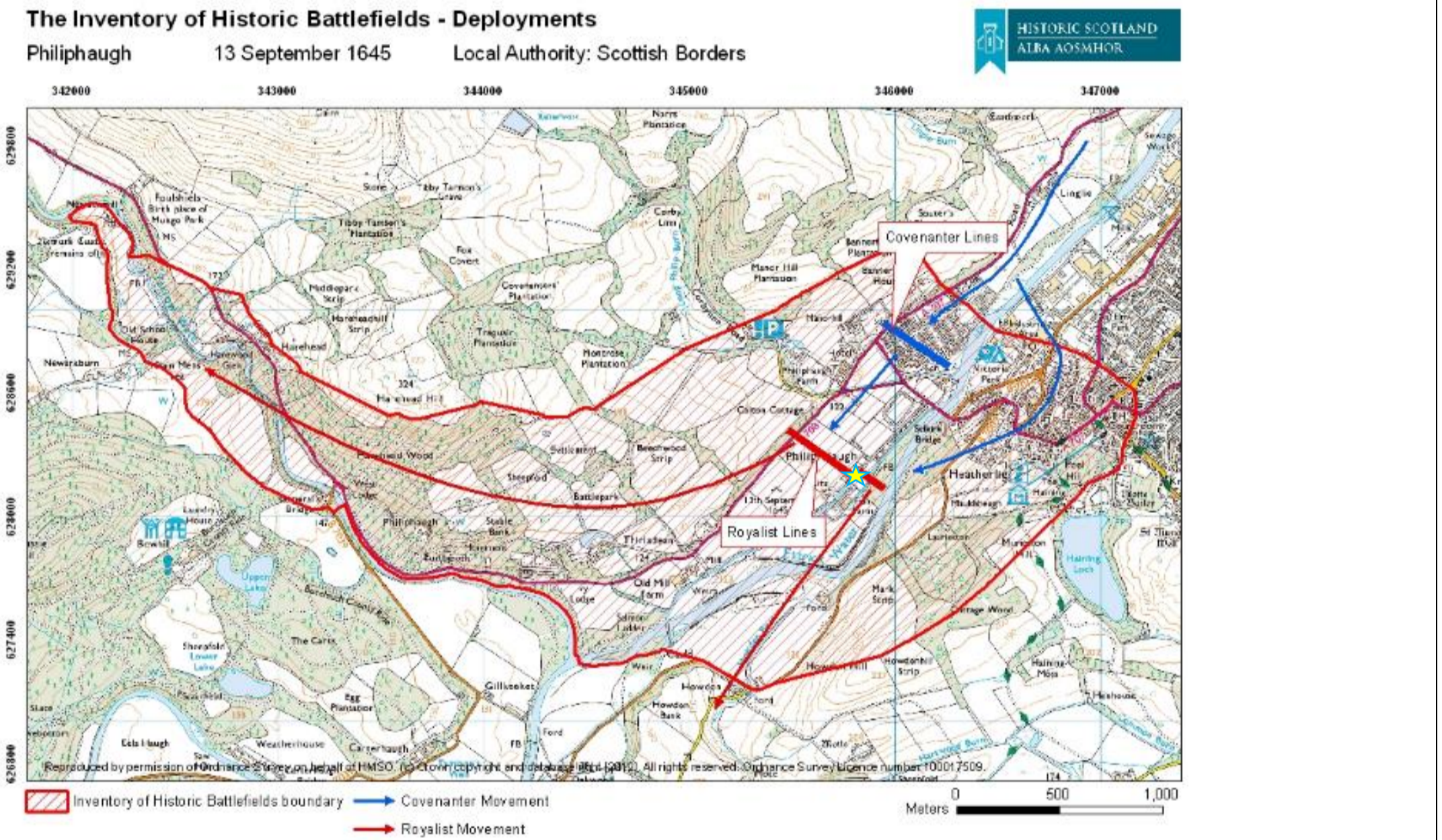


Figure 5: SEPA Flood Map. (Site marked ★).
© Ordnance Survey / SEPA

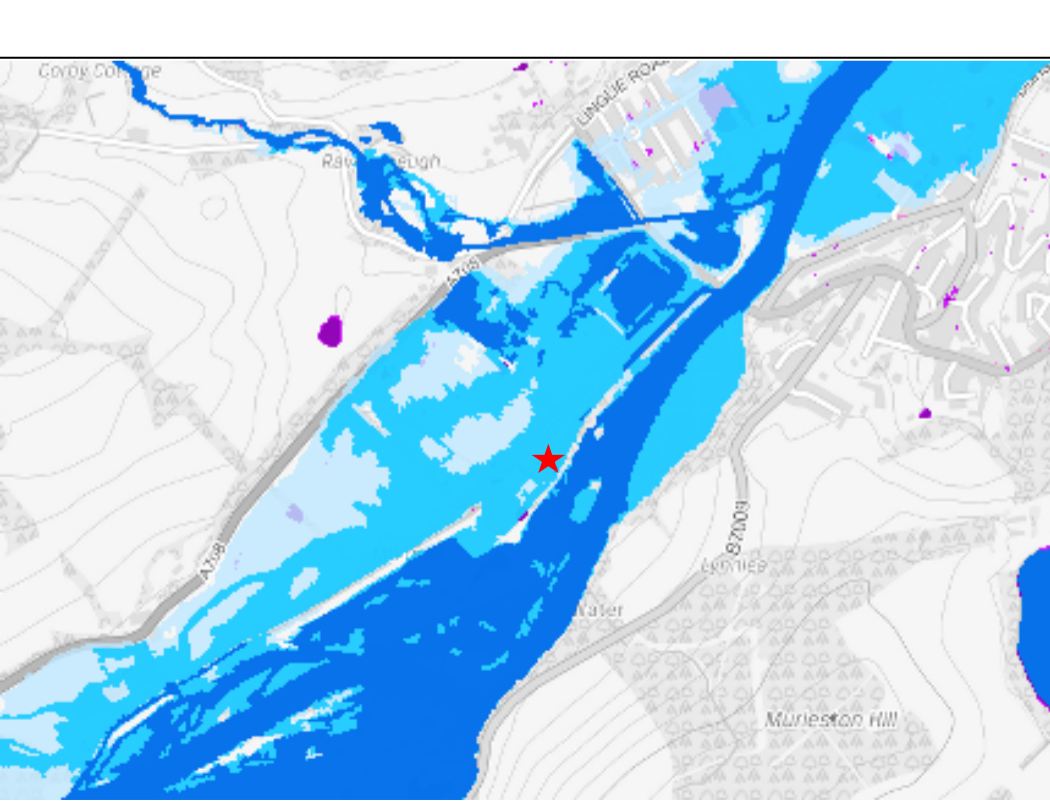
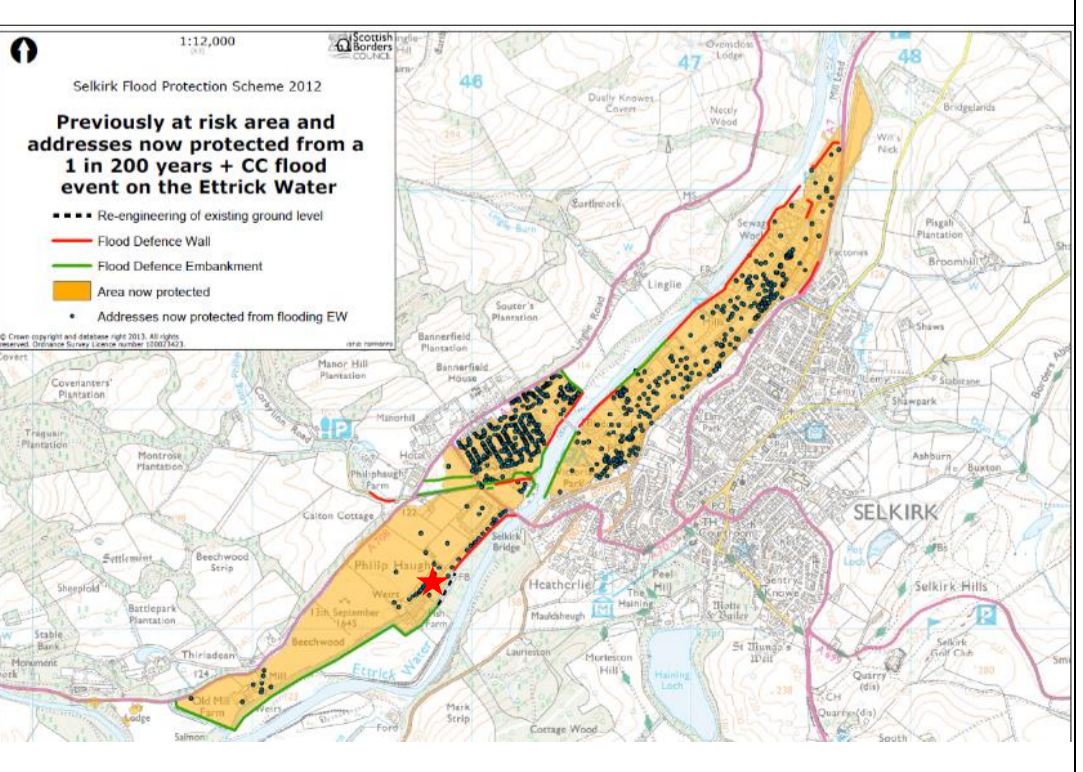


Figure 6: Selkirk Flood Protection Scheme - Areas and Addresses now protected from 1:200 years + CC flood event on Ettrick Water (Site marked ★). © Ordnance Survey / Scottish Borders Council



EIA Development:

- The proposal fits the description of being an urban development project under 10(b) of the table in Schedule 2, and is above the size threshold of 0.5ha. The site area is 0.73 hectares
- The Council has provided a screening opinion for the proposed development, setting out that EIA is not considered to be required.
- The council considered the proposed site is mostly an arable field with limited ecological value.
- The site itself does not carry any designations but is adjacent to the Tweed, Ettrick and Yarrow Confluences Special Landscape Area and the River Tweed Site of Special Scientific Interest
- The Ecology Officer is satisfied that in terms of potential impacts on wildlife or ecological interests the proposals are acceptable. Nevertheless, given that local habitats could support protected species and could potentially be affected by the development proposals, the council has recommended that a Species Protection Plan (SPP) for otters/breeding birds, a Biodiversity Enhancement Plan (BEP) and a Construction Environmental Management Plan (CEMP) are attached to a permission. Planning conditions are therefore recommended to cover these issues.
- The Council's view that no EIA is required is reasonable.

Consultations and Representations:

- SEPA object to the application on flooding grounds.
- Following notification to Scottish Ministers, Flood Risk Management Team (FRMT) colleagues within Scottish Government were consulted on the application. They do not recommend call in, as the application does not raise issues of national importance.
- The site is located within the Philiphaugh Battlefield and it is noted that HES has no objections to the proposed development.

Assessment:

Flooding

1. This planning application has been notified to Ministers because Scottish Borders Council are minded to grant planning permission for the proposal against the advice of SEPA who objected to the application.
2. There are two watercourses near to the site: The Ettrick Water and the Mill Lade. The application was accompanied by a flood risk assessment undertaken by Kaya Consulting. The FRA considers the location of the site in relation to Selkirk Flood Protection Scheme, the level of protection offered by the scheme and discusses the policy and guidance relevant to the proposal to build a residential development behind a flood protection scheme.

3. SEPA objected in principle 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 sparsely developed functional floodplain SEPA do not consider that it meets with the requirements of Scottish Planning Policy and their position is unlikely to change. SEPA acknowledge that the Selkirk Flood Protection Scheme (FPS) will reduce the risk of flooding to Selkirk, including to site. However, SEPA advised that the primary purpose of a flood protection scheme is to protect existing development from flooding rather than facilitate new development. SEPA has also objected to the sites inclusion within the Local Development Plan. SEPA recommends that alternative locations should be considered or that no land-raising should occur.
4. The Selkirk Flood Protection Scheme was completed in 2016 and offers flood protection to Selkirk from the Ettrick Water, Long Philip Burn and Shaw Burn. Selkirk Flood Protection Scheme Preferred Scheme Report (Halcrow, 2011) discusses the flood risk to the Philiphaugh from the Ettrick Water. A Flood embankment with an SOP of 1:200 year + Climate Change has been constructed from Old Mill Farm to Philiphaugh Mill and a flood wall is in place on Ettrickhaugh Road from the Lauriston Cottage to Selkirk Bridge, also with 1 in 200 + CC SOP. The Mill Lade is situated between the application site and the Ettrick Water which also has to be considered as a potential flood risk. An inlet control system is now in place to limit the flow entering the Mill Lade to 0.9m³/s. This is considerably lower than the conveyance capacity of the Mill Lade which is estimated to be 50m³/s (Halcrow, 2011). The Council considers that the application site is beyond the reach of the Mill Lade likely to back up during high flows on the Ettrick Water (as modelled in the Halcrow 2011 preferred FPS report). They therefore consider the risk of flooding from the Mill Lade to the application site to be low.
5. The applicant's Flood Risk Assessment considered flood risk from the Ettrick Water and the Mill Lade. It considers that the site is wholly protected by Selkirk Flood Protection Scheme including an inlet control system on the Mill Lade between the application site and the Ettrick Water. The FRA concludes that this is unlikely to back up during high flows on the Ettrick Water and therefore the risk of flooding from the Mill Lade to the application site is considered to be low. The Flood Risk Assessment recommends that the finished floor levels of the proposed houses is raised to 118.4m AOD. The indicative site plan shows the proposed finished floor level of each of the dwellings to be 119.15m OAD. This is above the 1:200 year plus climate change flood level of the Ettrick Water and above the maximum water level in the Mill Lade (117.73m AOD) and includes an allowance for freeboard.
6. The Council's Flood Protection Officer has no objection to the application on the grounds of flood risk. The council considers that the application meets all the criteria set out in relevant guidance, that the residual risk of flooding to the site is acknowledged and proposed finished floor levels are set at an appropriate level with an allowance for freeboard.
7. Scottish Planning Policy's Flood Risk Framework states that medium to high risk sites with an annual probability of coastal or watercourse flooding may be suitable for residential, institutional, commercial and industrial development within built-up

areas provided flood protection measures to the appropriate standard already exist and are maintained, are under construction, or are a planned measure in a current flood risk management plan. SEPA consider that the area surrounding the site is sparsely developed and that it therefore does not meet the criteria for development under the SPP risk framework. This is defined in their guidance on development behind flood protection schemes as “an area characterised by isolated developments or no other development at all, or within a settlement boundary but located on the periphery of the settlement and predominantly or completely surrounded by undeveloped land”. It is noted that the site is located within the Selkirk Settlement Boundary in the adopted Local Development boundary.

8. The Scottish Government Flood Risk Management Team (FRMT) have considered relevant mapping and plans and consider that the site lies within the settlement boundary and the adjoining land uses are developed in nature; two sides are residential housing and one side is a former industrial site. The FRMT advise the site is therefore likely to meet the definition of an infill site. The site is protected by the Selkirk Flood Protection Scheme to a 1 in 200 year + climate change standard of protection from both the Etrick Water and the Mill Lade, which seems to accord with SEPA’s guidance.

Conclusion

9. The Council has considered the objections from SEPA and the advice from their own Flood Protection Officer and are content that the proposal has been designed to mitigate potential flood risk. The council considers the proposal is in line with their development plan policy. The Scottish Government Flood Risk Management Team is content that the proposal does not raise issues of national importance. Based on the information submitted, it is not considered that the proposal gives rise to significant concerns over flood risk that would merit further scrutiny by Ministers.

Decision/Recommendation:

- Clear the application back to Scottish Borders Council.