



Case reference	NA-WLN-023
Application details	Erection of a house
Site address	Plot of land, Burnvale, Broxburn
Applicant	Douglas & Sheila Halliday
Local Authority Area	West Lothian Council (LRB)
Reason(s) for notification	Category 2 (Objection by Government Agency) (SEPA)
Representations	1
Date notified to Ministers	13 September 2019
Date of recommendation	08 October 2019
Decision / recommendation	Clear

Description of Proposal and Site:

- Planning permission in principle is sought for the erection of a house on a plot of land in Burnside to the south of Broxburn in West Lothian (council ref. 0280/P/18). The site is located within the settlement boundary, on land which has no specific designation/allocation in the West Lothian Local Development Plan.
- The planning application was refused under delegated powers, and following the applicant's submission of a Notice of Review, the council's Local Review Body resolved to approve the application.

EIA Development:

- The proposal can be regarded as an 'urban development project' in terms of the relevant EIA Regulations, but is below the screening threshold of 0.5ha and is not within a sensitive area. Therefore the proposal does not need to be the subject of an EIA screening opinion.

Consultations and Representations:

- Scottish Environment Protection Agency (SEPA) objects to the proposed development on flood risk grounds. Their advice is outlined below.
- The Scottish Government's Flood Risk Management Team advises that it does not believe the application should be called in by Scottish Ministers as the development does not raise any issues of national importance.

- One representation was received by the council. This was neutral (neither in support of nor objecting to the application) and did not include any comments regarding flood risk.

Assessment:

1. As SEPA objects to the proposed development on flood risk grounds, this application has been notified to Scottish Ministers to ascertain whether there are any issues of national importance to warrant them calling in the application for their own determination.
2. The application was initially refused under delegated powers by council officers. The reasons for refusal were that the proposed house is situated within an undefended floodplain and would result in a significant flood risk for future occupiers, and that the proposal is contrary to the council's Local Development Plan policies on flooding and infill/windfall housing development and Supplementary Guidance on flooding and the water environment. The council's Local Review Body (LRB) then reviewed the case and resolved that planning permission should be granted, subject to conditions and a planning obligation.
3. Part of the site lies within the medium likelihood (0.5% annual probability or 1 in 200 year) flood extent of the SEPA Flood Map, indicating it may be at medium to high risk of flooding. The area benefits from a flood protection scheme, but SEPA advice is that for housing proposals located behind a formal flood protection scheme, the standard of protection (SoP) of the scheme must be equal or greater than 200 years plus climate change. SEPA considers that the flood protection scheme in Burnvale provides a SoP of 1 in 200 years *without* the addition of a climate change allowance. SEPA therefore objects to the proposed development on the grounds that it may place buildings and persons at flood risk contrary to Scottish Planning Policy. However, SEPA also advised the Council that they do not object *in principle* to the application, as if the dwelling was located on an area to the south, on higher ground within the application site, it would be outwith the functional floodplain and therefore acceptable under SEPA's policy and guidance.
4. The Council's Flood Risk Management team advised that hydraulic modelling of the Brox Burn and associated tributaries was carried out for the Council in 2016, and the predicted flood extents showed that most of the site was not at "particular risk" of flooding. The team therefore advised that if the authority was minded to grant permission, the house should be located towards the southwest corner of the plot, taking advantage of higher ground.
5. In his report on the application, the council's planning officer stated that moving the house to the south of the site (in order to potentially address SEPA's objection) "would result in an unacceptable break from the established building line along Burnvale, causing a detrimental impact on the streetscene and spatial character of the area."
6. The LRB disagreed with the planning officer on this matter, stating in their reasons for granting planning permission that there is no established building line; the alternative location on higher ground would be acceptable, and that any

concerns about a detrimental impact on the street scene at the alternative location can be 'designed out' under an application for approval of matters specified in conditions ('MSC application'). The LRB also considered that flooding concerns could also be addressed under a MSC application.

7. The conditions that the council intends to attach to the permission include a requirement for a subsequent MSC application to include a flood risk assessment, complying with SEPA's technical guidance, including any necessary mitigation measures to counter flood risk on the site.
8. The Scottish Government's Flood Risk Management Team (FRMT) have considered the documents associated with the case. They state that given only a small part of the plot might be at risk from a 1 in 200 year plus climate change flood event, and in light of the reasons given by the LRB for intending to grant permission which take account of the flooding concerns, they do not believe the application should be called in by Scottish Ministers.
9. In the light of the above information including the advice of FRMT, it is considered that this application does not raise any issues of national importance to warrant intervention by Scottish Ministers.

Decision/Recommendation:

- It is recommended that this application is cleared back to West Lothian Council.



The application site (outlined and hatched in red)

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