

Case reference	NA-EDB-048
Application details	Erection of purpose built student accommodation, ancillary uses and associated landscaping and infrastructure
Site address	24 Westfield Road, Edinburgh
Applicant	Westfield Road, Edinburgh Limited
Determining Authority	The City of Edinburgh Council
Local Authority Area	
Reason(s) for notification	Category 2 (Objection by Government Agency - SEPA)
Representations	30 + 2
Date notified to Ministers	24 October 2019 but not fully documented until 1 November 2019
Date of recommendation	24 February 2020
Decision / recommendation	Clear

Description of Proposal and Site:

- Planning permission is being sought for the demolition of a vacant low rise furniture showroom and office building and erection of 6/7 storey student accommodation block (394 bedrooms) with ancillary uses, associated landscaping and infrastructure on Westfield Road, Edinburgh.
- The site covers 0.31 hectares and is located within the Gorgie/Dalry area west of Edinburgh city centre. The surrounding area is mixed use and urban in nature being immediately adjacent to a petrol station and opposite a large supermarket car park. There is residential flatted development to the north west and a retail unit to the south west. The Water of Leith watercourse is approx. 143m to the north west of the development site.

EIA Development:

- The proposal could be regarded as an ‘urban development project’ in terms of the relevant EIA regulations, but the site is below the screening threshold of 0.5ha and is not located in a sensitive area. Therefore the proposal was not the subject of an EIA screening opinion.

Consultations and Representations:

- SEPA (Scottish Environmental Protection Agency) objects to the proposal on the basis that the site is on the functional floodplain of the Water of Leith and may place buildings and persons at flood risk – SEPA consider the change in use from retail and office accommodation to student housing will increase “vulnerability” for

those at flood risk. The proposal was amended to address the flood risk assessment and drainage strategy concerns initially raised by SEPA. While the revised plans reflect these changes, SEPA maintain their objection on the grounds of a lack of information on flood risk as the site appears to be on the boundary of a 1:200 year flood extent and they are not able to confirm that the site is outwith the functional floodplain.

- Following notification, the Scottish Government Flood Risk Management Team were consulted and consider the proposed development does not raise issues of national importance that would warrant call-in by Scottish Ministers.
- 30 representations were received by the Council in relation to the proposal – 24 objections, 5 support letters and 1 neutral comment. The main issues include over-provision of student accommodation in the area; lack of affordable housing; conflicting surrounding land uses; potential litter and anti-social behaviour; height and scale of building; impact on daylight and amenity; loss of privacy; impact on parking in surrounding streets; disruption from noise and increase in traffic/taxis; impact upon public transport; impact of construction works upon neighbouring properties and the impact of vibration upon neighbouring commercial uses.
- Following notification, PAD received representation from a commercial neighbour to the proposal who highlighted the impacts on their business due to construction noise/vibration and overshadowing as well as a lack of these issues being identified by the Council as material considerations. A letter on behalf of the applicant was subsequently received in response to this representation. It indicated that no reference to the flooding issue is made in their representation; the development's proposed ground floor was raised to minimise potential flooding impact and the developer is continuing to work with the commercial neighbour to address their concerns. Discussions between these parties has been ongoing.

Assessment:

1. This planning application has been notified to Ministers because the City of Edinburgh Council are minded to grant planning permission for the proposal against the advice of SEPA who objected to the application. It had been recommended for refusal by the planning officer at the Development Management Sub Committee on 9 October on the basis that it was contrary to Local Development Plan (LDP) policies on housing and failed to deliver mainstream housing on the site.
2. At committee, it was considered that the proposal is appropriate in design; would provide adequate amenity to future occupiers and would not be to the detriment of neighbouring amenity; is in accordance with LDP policies on design and housing and the Edinburgh Design Guidance. The committee also considered the proposed development would not result in increased flood risk nor would it have road safety implications. The proposal accords with housing and employment policies of the LDP. It was approved on the basis that conditions regarding materials, contaminated land, archaeology, noise protection and transport contributions etc were imposed as well as a referral to Ministers due to the SEPA objection.

3. SEPA consider that, due to the proposed residential use and increase in vulnerability, the proposed development must be outwith the functional floodplain of the Water of Leith. They have a shared duty with Scottish Ministers and other responsible authorities under the Flood Risk Management (Scotland) Act 2009 to reduce flood risk and promote sustainable flood risk management. It is SEPA's view that vulnerable uses such as residential development should be directed to alternative locations rather than incorporating mitigation measures. However SEPA also recognise that in determining planning applications local authorities have to consider a range of material considerations as well as flood risk.
4. In additional comments dated 23 October, SEPA state their understanding that the completion of Phase 2 of the Water of Leith Flood Protection Scheme does not offer protection to the proposed development. This is contrary to the planning officer's view as stated in the Development Management Sub Committee report. The site would appear to be on the boundary of the 1:200 year flood extent and peak flow estimates may be underestimated. SEPA cannot confirm that the site is outwith the 1:200 year functional floodplain as the topographic information submitted with the application does not appear to support the flood extent identified. They advise that additional review and clarification on flood levels and topographic levels should be provided. SEPA reiterate their previous response by stating that due to the increase in vulnerability the proposed development must be outwith the functional floodplain.
5. The Council's Flood Prevention Team considers the proposal has been adequately designed to mitigate potential flood risk and accords with their relevant LDP policy on flood protection so they are satisfied that the mitigation proposed is acceptable.
6. The key consideration in this case is therefore whether this application is considered to raise issues of national importance which warrant call-in by Ministers based on the flood risk objection from SEPA.
7. With regards to the proposal and the principle of development, the policy principles of managing flood risk and drainage within SPP highlight that the planning system should promote flood avoidance by safeguarding flood storage and conveying capacity and locating development away from functional flood plains and medium to high risk areas. Paragraph 256 of SPP sets out that the planning system should prevent development that would have a significant probability of flooding or would increase the probability of flooding elsewhere and that piecemeal reduction of the functional floodplain should be avoided given the cumulative effects of reducing water storage capacity.
8. In considering this notification, we recognise SEPA's concern regarding building on the functional floodplain. However each planning application should be assessed on its own merits. Taking into account the fact that the Water of Leith is subject to a Flood Protection Scheme which will be entering its 3rd phase of defence and the building design has been amended to mitigate the effect of potential flooding we do not consider that this development raises issues of national importance.

9. The issues raised by a third party representation received by PAD consist of the potential impacts on their business operations including the precision manufacturing process and their power generation capabilities. The applicant's response to this representation indicates that both neighbours are still in mitigation discussions and the particular aspects raised are unrelated to the flood risk issue and the reason for notification.
10. The representations received from a neighbouring business, do not raise matters of national significance to have a bearing on our consideration at this notification stage. The issues raised in respect of these matters can, and should be, dealt with by the City of Edinburgh Council as planning authority.
11. Overall the council's flooding team are content that the proposal has been designed to mitigate potential flood risk. The Scottish Government's Flood Risk Management team is satisfied that the proposal does not raise issues that would merit ministerial intervention. On balance, it is considered that this particular proposal does not raise issues of national importance to warrant intervention by Scottish Ministers.

Decision/Recommendation:

- It is recommended that the application be cleared back to the City of Edinburgh Council.