



Case reference	NA-EDB-049
Application details	Proposed development of former car park to erect 35 flats with associated parking, access and services
Site address	500 Gorgie Road, Edinburgh
Applicant Determining Authority Local Authority Area	Spindlehawk Ltd City of Edinburgh
Reason(s) for notification	Category 2 (Objection by Government Agency) (SEPA)
Representations	2
Date notified to Ministers Date of recommendation	10 June 2020 but not fully documented until 15 June 2020 12 November 2020
Decision / recommendation	Clear

### Description of Proposal and Site:

- The application proposes a residential block of flats (35 flats in total), rising up to five storeys. A car park and cycle parking are proposed to the rear (north) of the block.
- The site is a former car park, which previously served Chesser House (formerly an office block, recently converted into residential flats) located to the immediate east of the application site. The site is approximately 0.15 ha in area.
- An office block ('Riverside House') sits immediately north of the site. An existing restaurant bounds the site to the west.
- The Water of Leith passes to the northwest of the site. The site is within an area covered by Phase 3 of the Water of Leith Flood Protection Scheme, which currently has no timescale for construction.

### EIA Development:

- The proposal fits the description of being an urban development project under 10(b) of the table in Schedule 2 of the EIA regulations, but is below the size threshold of 0.5ha. The site is not within a sensitive area. An EIA was therefore not required.

## **Consultations and Representations:**

- Two letters of representation were received by the council, both objecting to the proposal. Concerns raised related to impacts on daylight and privacy to the office building to the north; density; the size and mix of units; parking provision; lack of residential amenity; and proximity to the Water of Leith.
- Scottish Environment Protection Agency (SEPA) initially objected to the application due to a lack of information. SEPA advised that according to their Flood Map, the site may be at medium to high risk of flooding, and that they would review their objection following submission of a flood risk assessment (FRA). A FRA was subsequently submitted (on 29 October 2019) but SEPA did not provide further comments before the council notified Ministers of its intention to approve the application. Further detail of SEPA's position is provided in the Assessment section below.
- Following clarification on why a 0.6m freeboard was not achievable and flood resilience measures to be included, the Council's Flood Prevention Team confirmed it had no objection.
- Scottish Government's Flood Risk Management team advises that the case does not raise issues of national interest warranting call-in by Ministers. More details of their advice are given below.

## **Assessment:**

1. The City of Edinburgh Council is minded to grant planning permission for the proposed development against the advice of SEPA and has duly notified Scottish Ministers of the application.

### Background and SEPA's position

2. Following the completion of Phases 1 and 2 of the Water of Leith (WoL) Flood Protection Scheme (FPS), the Council commissioned Arup to carry out a hydrological and hydraulic modelling study of the WoL, to better understand design flows in the complex catchment and the standard of protection provided by the FPS. Progress on this study has been subject to delays. In the absence of the conclusion of the Arup study, SEPA said it could not review the submitted FRA, stating that "the uncertainties in agreeing a design flow have led us to the general position of seeking to defer determination of relevant planning applications".

3. However, SEPA have subsequently provided comments on the submitted FRA, and maintains their objection. SEPA emphasised potential impact on other properties, advising that the minimum finished floor level (FFL) at Chesser House has only approx. 0.25m freeboard allowance above the current estimate of the 1:200 flood level, and with the addition of a climate change allowance there would be a significant depth of water above the minimum FFL. SEPA therefore considers it is important to understand the potential impact the proposed development on the risk of flooding to the existing development at Chesser House. SEPA advised that the FRA should be updated with a 'post development model run' and should consider any updated information from the Arup study.

4. It is unknown whether there will be enough site-specific information within the Arup report for SEPA to provide definitive advice regarding acceptability of the proposed development in terms of flood risk. It seems likely that following the publication of the Arup report, SEPA would request a revised flood risk assessment from the applicant.

#### The position of the applicant

5. Kaya Consulting, the applicant's FRA consultant, states that given the delay in completing the Arup study, it is not appropriate to delay decisions on planning applications for sites along the Water of Leith. Knowledge of flood risk continually evolves and it is normal for FRAs to be considered based on the information available at the time of submission. The consultant contends that the normal approach should be taken at this site and that their FRA has been independently checked by a second consultant and is consistent with SPP.

#### The council's position

6. The council's view is that notwithstanding SEPA's objection, the proposal has been designed to mitigate the potential of flood risk and accords with the flood risk policy (Policy Env 21) of the LDP. They consider that the principle of residential development in this location is acceptable; the proposal is appropriate in design; and in accordance with relevant policies of the LDP.

#### Advice from the Scottish Government Flood Risk Management (FRM) Team

7. The FRM team has reviewed the case and considers that the FRA submitted is of an acceptable standard and has used suitable information available at the time of writing. It has shown that the site is outwith the 1 in 200 year functional flood plain as defined in Scottish Planning Policy, and has assessed the impact of climate change. The team notes that proposed finished floor levels would give a 0.3m freeboard above the 1 in 200 year plus climate change flood level estimated within the submitted FRA, and mitigation measures are proposed. Figure 1 below shows the assessed extent of the 1 in 200 year functional floodplain according to the FRA.

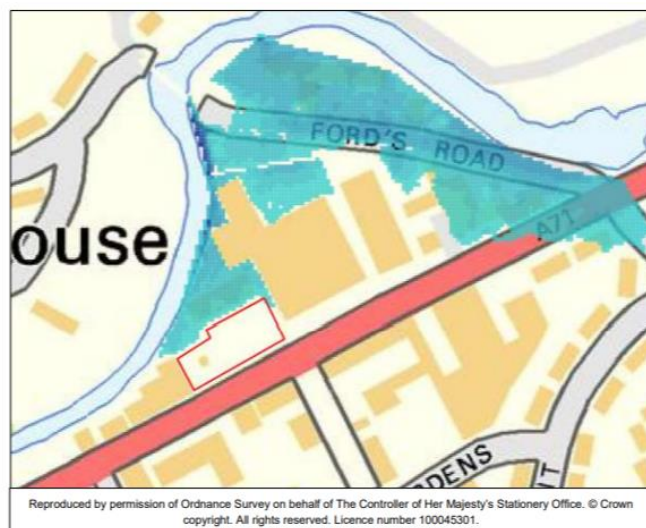


Figure 1: 200 year flood extent (application site outlined in red) – figure taken from the FRA (Kaya Consulting)

8. The FRM team notes that SEPA has requested an assessment of the impacts on nearby property. However, on the basis that the site has been shown to be outwith the 1 in 200 year functional flood plain and floor levels would be above the 1 in 200 year plus climate change level with 0.3m freeboard, the FRM team does not anticipate that the proposed development would take up functional flood plain storage, nor that compensatory flood storage would be required.

9. The FRM team advises that the case does not raise issues of national interest warranting call-in by Ministers, but also recommends that due to the uncertainty as to the level of flood risk from the Water of Leith at the site, the Arup study is taken into consideration in the final decision on the application. Whilst we understood the Council anticipated receiving the Arup study report by the first week in November, we understand that it is now likely to be further delayed.

#### PAD conclusion

10. PAD notes that in this case, SEPA has not objected in principle to the development, has not provided specific comments on the proposed development (other than requesting further flood risk assessment work) nor advised that the proposed development would be at an unacceptable level of flood risk. Instead, SEPA is seeking to defer determination of the application until new information is available (i.e. the outcome of the Arup study). However, as a general principle, applications should be determined, and FRAs should be undertaken, on the basis of the best information *currently* available. In view of this and the advice of the FRM team, PAD considers that this application does not raise issues of national interest warranting call-in by Ministers.

#### **Recommendation:**

11. Clear back to the council for them to determine as they see fit.