



Case reference	NA-EDB-050
Application details	Demolition of existing house and erection of new residential building to form residential apartments with associated car parking and landscaping
Site address	37 Corstorphine Road, Edinburgh
Applicant Determining Authority Local Authority Area	37 Corstorphine Road, Ltd City of Edinburgh
Reason(s) for notification	Category 2 (Objection by Government Agency) (SEPA)
Representations	176 plus Murrayfield Community Council (50 of which are in support)
Date notified to Ministers Date of recommendation	19 August 2020 but not fully documented until 25 August 2020 2 October 2020
Decision / recommendation	Call-in

### Description of Proposal and Site:

- The application is for the demolition of a single house and erection of 20 apartments within a four storey block with terraces, balconies, cycle and car parking, landscaping and refuse space.
- The 0.17 hectare site is located on the south side of Corstorphine Road in Edinburgh.
- The Water of Leith is directly to the rear of the site.

### Planning History

- A previous application for a similar proposal at this site (18/02404/FUL) was dismissed at appeal on 20 January 2020 (PPA-230-2287). The reporter concluded that the proposal would be at risk of flooding due to uncertain levels of protection and an inadequate level of freeboard allowance being available.

### EIA Development:

- The proposal fits the description of being an urban development project in 10(b) Schedule 2 of the EIA regulations, but is under the 0.5ha size threshold. Therefore an EIA is not required.

### Consultations:

- SEPA object in principle to the proposed development on the grounds that it may place buildings and persons at flood risk contrary to Scottish Planning Policy

(SPP). SEPA consider that the proposal does not meet their criteria (PIN4 guidance) for residential buildings behind flood defences. SEPA state that there are uncertainties within the modelling used in the Flood Risk Assessment (FRA) submitted in support of the application. SEPA state that the flows used to calibrate the model are no longer valid because data from 2000 has been used but the channel has been significantly altered by the Water of Leith Flood Protection Scheme (FPS) since this date. SEPA claim the flows and subsequently the 1 in 200 year flood level have been significantly underestimated. To support a highly vulnerable land use, like residential, behind a formal flood defence SEPA requires that the flood defence has a minimum Standard of Protection (SOP) of 200 years including a 20% allowance for climate change. SEPA advice that there are currently uncertainties over the standard of protection provided by the Water of Leith FPS at this location. SEPA state that if the modelled FRA is accurate, then only 0.19m of freeboard above the 1 in 200 year plus climate change event is provided (and that there would be 0.51m freeboard at a 1 in 200 year flood event) and that this is not an acceptable level. They further state that if more up to date software and more historic flood events are considered, the freeboard allowance at a 1 in 200 year flood event would likely reduce from 0.51m to 0.2m, implying the 1 in 200 year plus climate change freeboard would also reduce. SEPA also note that if the flood walls are overtopped, the site is anticipated to flood behind the flood walls – this would be contrary to SPP. SEPA highlight that the City of Edinburgh Council's consultant is currently undertaking a hydrological and hydraulic modelling study of the Water of Leith that will include the flood protection scheme and an assessment of the SOP of the defences. SEPA's recommendation is to delay making a decision on this application until this flood study has been completed to understand whether it provides an agreed Standard of Protection for the scheme.

- Arrangements for the site with regards to flooding are acceptable to City of Edinburgh (CEC) Council's Flood Prevention Team.
- Following notification, the Scottish Government's Flood Risk Management Team were consulted. While noting that the finished floor levels in this current application are 42.84mAOD; 0.12m above the appeal reporter's recommendation, there are still uncertainties about the modelling, the calibration, design flows and most significantly the level of protection provided by the Water of Leith FPS at this location. They consider that it cannot be ascertained whether the scheme currently provides a 1 in 200 year plus climate change level of protection, with appropriate freeboard and whether this proposal at this location complies with policy. They recommend that the application is called in for a decision by Scottish Ministers.

#### **Representations:**

- 176 representations were received by the Council. 126 of these were objections and 50 letters were in support. An objection was received from Murrayfield Community Council. Grounds of objection include inappropriate scale and character of the proposal, pressure on local parking and traffic impact, flooding issues and privacy issues. Comments in support include the provision of much needed housing, reducing the need for greenfield release.

- Following notification, PAD have received 3 representations - from Murrayfield Community Council who share SEPA's view that the site presents an unacceptable flood risk for the proposal, and regarding the adequacy of proposed communal green space.
- PAD also received a letter on behalf of local residents regarding the handling of the application, and another letter from a local MSP considering that a development of the nature proposed would be completely out of character for this locality and its proximity to the Water of Leith with the uncertainties regarding the level of protection from the FPS.

### **Assessment:**

1. This application has been notified because the City of Edinburgh Council (CEC) are minded to grant planning consent for this proposal against the advice of SEPA.
2. In arriving at their decision, in terms of flood risk, the committee report states that, notwithstanding SEPA's objection to the principle of residential development, the proposal has been designed to mitigate potential flood risk and accords with LDP policy ENV 21 Flood Protection and addresses the reporter's concerns in the recent appeal decision.
3. In 2018, a similar application was refused by CEC (reference 18/02404/FUL) and dismissed at appeal in 2019. On appeal, it was concluded that there was inadequate information on the level of protection from the Water of Leith Flood Protection Scheme (FPS) and that there was an inadequate freeboard allowance provided. Within the appeal report, it was recommended that finished floor levels should be at least 42.7mAOD to mitigate these concerns. It is noted that the current application states that the finished floor levels are 42.84mAOD. The applicants consider the recommendations in the appeal report have been met and the concerns of the reporter mitigated in that respect.
4. However, it is noted that SEPA guidance on building behind flood defences states that any new residential development built behind a FPS should be protected to a 1 in 200 year plus climate change standard including an appropriate allowance for freeboard. SEPA argue that the current freeboard allowance is 190mm, an unacceptable figure, at a 1 in 200 year plus climate change level and that the Terrenus model used within the FRA has multiple uncertainties within its results.
5. Given the present uncertainty within the calibration, design flows and most significantly the level of protection provided by the Water of Leith FPS at this location, it cannot be ascertained whether the scheme currently provides a 1 in 200 year plus climate change level of protection, with appropriate freeboard and whether this proposal complies with SEPA guidance and SPP.
6. 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. We understand

that the level of protection afforded by the defences will be clarified within Arup's review of the standard of protection that is due to be published by the end of this year. SEPA is seeking to defer determination of the application until the outcome of the study is known. As a general principle, applications should be determined, and FRAs should be undertaken, on the basis of the best information available at the time – which at present does not include the Arup study findings. However, PAD considers that this particular case raises several significant issues in relation to flood risk that would benefit from further scrutiny by Ministers.

7. For the reasons set out above, this case raises issues that would benefit from further scrutiny by Scottish Ministers and an appointed Reporter. A Reporter would also be able to assess the proposals in the light of the Arup study outputs and any further advice from SEPA, if available. It is therefore recommended that, with regards to flood risk, that the planning application is called-in for consideration by Scottish Ministers.

**Decision/Recommendation:**

- Call-in the application.