

SEPA Planning Information Note 4: SEPA Position on development protected by a Flood Protection Scheme

Scotland's 4th National Planning Framework has recently been published. This document is therefore being reviewed and updated to reflect the new policies. You can still find useful and relevant information here but be aware that some parts may be out of date and our responses to planning applications may not match the information set out here.

Purpose

This information note outlines our position relating to proposed development protected by a Flood Protection Scheme. The position is embedded in [SEPA's Flood Risk Planning Guidance](#) and reflects our interpretation of Scottish Planning Policy 2014 (SPP) and our duties under the Flood Risk Management (Scotland) Act 2009.

Reducing flood risk across Scotland

Flood protection schemes play a critical role in reducing flood risk. For this reason they are identified in the suite of actions to reduce flood risk in the fourteen [Flood Risk Management Strategies](#) and associated [Local Flood Risk Management Plans](#) covering Scotland. These proposals will help reduce the flood risk to existing communities and businesses and the associated annual damages caused by flooding.

Land use planning and flood protection schemes

The land use planning system has a pivotal role to play in ensuring that new developments support the aspirations of the Flood Risk Management Strategies and Local Flood Risk Management Plans for Scotland by not adding to the number of buildings and amount of infrastructure at flood risk. Flood protection schemes can reduce flood risk but cannot eliminate it entirely (Scottish Government Online Planning Advice on Flood risk, para 21). Their primary purpose is to protect existing development from flood risk rather than to facilitate new development. For this reason the policy principle of avoidance should be promoted for any proposed development in areas protected by such schemes (SPP, paragraph 255).

In line with SPP, certain developments may be acceptable behind an existing or [planned scheme](#) in a [built up area](#). These fall into four main categories:

1. Water compatible developments and essential infrastructure that is designed to remain operational during flood events; or,
2. Development that does not increase overall flood risk; or,
3. The principle of the development has been established in an up-to-date, adopted development plan (including the National Planning Framework) with due consideration of flood risk; or,
4. The scheme is built to the minimum appropriate standard for the land use vulnerability category of the proposed development as defined below:

Land use vulnerability classification	Minimum appropriate standard
Water compatible uses	No minimum standard
Essential infrastructure (designed and constructed to remain operational during a flood)	No minimum standard
Least vulnerable uses	0.5 % AEP (200 year) standard of protection
Highly vulnerable uses	0.5 % (200 year) plus climate change standard of protection

Land use vulnerability classifications are defined in our [Land Use Vulnerability Guidance](#). Further advice on our definition of a *built-up area* and *planned measure* can be found [here](#).

In light of the above, our position on development protected by a flood protection scheme is summarised below.

Our Position: Development protected by a formal flood protection scheme

The following categories of development would generally be acceptable when protected by an existing or [planned formal flood protection scheme](#) in a [built up area](#). It is recommended that any development protected by a [formal scheme](#) is built to a water resilient design and has adequate evacuation procedures in place that are appropriate to the level of risk and use.

Standard of protection of the scheme at the time of development	Within the built-up area , the defended area is generally acceptable for:
Less than a 200 year standard of protection (i.e. greater than a 0.5% AEP standard of protection)	<ul style="list-style-type: none"> • Water compatible uses; or, • Essential infrastructure designed to remain operational during flood event; or, • the principle of the development has been established in an up-to-date, adopted development plan or the National Planning Framework with due consideration of flood risk; or, • Any other development that does not increase overall risk*.
Equal or greater than a 200 year standard of protection (i.e. equal or less than a 0.5% AEP standard of protection)	<ul style="list-style-type: none"> • Water compatible uses; or, • Essential infrastructure designed to remain operational during flood event; or, • the principle of the development has been established in an up-to-date, adopted development plan or the National Planning Framework with due consideration of flood risk; or, • Least vulnerable developments; or, • Any other development that does not increase overall risk*.
Equal or greater than a 200 year plus climate change standard of protection (i.e. equal or less than a 0.5% AEP plus climate change standard of protection)	<ul style="list-style-type: none"> • Water compatible uses; or, • Essential infrastructure designed to remain operational during flood event; or, • the principle of the development has been established in an up-to-date; or, adopted development plan or the National Planning Framework with due consideration of flood risk; or, • Least vulnerable developments; or, • Highly vulnerable developments.

*i.e. consists of redevelopment of an existing building, including change of use to an equal or less vulnerable use; or, involves the erection of new buildings on a site to an equal or less vulnerable use than the existing buildings, which do not increase overall flood risk (through, for example, a significant increase in the density or footprint of the built up area or increasing risk elsewhere).

Informal flood defences

Any protection offered by informal flood defences would not be taken into account when considering development behind or benefitting from them. Such proposals would be considered within the context of the SPP risk framework as if the scheme did not exist. The structural condition and design standard of such schemes are unknown and they therefore pose a significant level of risk to any proposed development behind or benefitting from them.

Most vulnerable uses

Developments that introduce most vulnerable uses are not considered acceptable behind a flood protection scheme. The consequences of any residual flood risk would be too significant for developments within this land use category.

Outwith built up areas

Proposed developments protected by flood protection schemes outwith [built up areas](#) would be considered within the context of SPP as if the scheme were not there.

What does it mean?

Built up area

There is no guidance on what is meant by 'built up areas' in SPP and an element of judgement therefore needs to be used in its interpretation. To support a consistency of approach SEPA applies the following general guiding principles to help decide whether a site is within a built up area. We recognise however that each site presents a unique set of circumstances that will need to be considered together with the views of your planning authority.

A site would be considered to fall within a built up area if:

1. It is within the settlement boundary of a village, town or city; *and*,
2. The adjoining land uses are predominantly developed in nature i.e. most of the boundary is adjacent to existing development.

A site would *not* be considered to fall within a built up areas if:

1. It is in a sparsely developed area characterised by isolated developments or no other development at all; *and*,
2. It is outwith a settlement boundary; *or*,
3. It is within a settlement boundary but is located on the periphery of the settlement and is predominantly or completely surrounded by undeveloped land.

Planned measure/scheme

A planned measure or scheme is one that is being promoted in the relevant [Flood Risk Management Plan](#) for the area or a scheme that is being brought forward under other sections of the Flood Risk Management (Scotland) Act 2009. Proposed developments protected by a 'planned measure' would only be considered to be acceptable if there is certainty that the measure will be delivered prior to occupation of the development (i.e. the contract for the scheme has been awarded). A recent [Ministerial decision](#) established that a negative condition could provide a mechanism for planning authorities to achieve this. [Local Flood Risk Management Plans](#) provide timescales for the implementation of schemes which will help you determine whether a scheme is a 'planned measure'.

Flood Protection Schemes: formal or informal?

Flood protection schemes cover all measures which are designed and implemented so as to reduce exposure of receptors to flood risk and include direct defences (walls and embankments), indirect defences (flood storage schemes), and other engineering works such as culverts and channel/floodplain engineering. *Formal* flood protection schemes are those which have been/are being promoted through relevant legislation (i.e. Flood Prevention (Scotland) Act 1961 (as amended in 1997), the Flood Risk Management (Scotland) Act 2009 or Coast Protection Act 1949). *Informal* flood defences are proposals that have been/are being brought forward outwith this legislation.