

Case reference	NA-EAY-023
Application details	Erection of two Class 3 units, formation of outdoor seating area, associated car parking and landscaping
Site address	Queens Drive retail park, Queens Drive, Kilmarnock
Applicant	Redefine International
Determining Authority	East Ayrshire Council
Reason(s) for notification	Category 2 (objection by SEPA)
Representations	1 letter of support
Date notified to Ministers	25 November 2016 but not fully documented until 30 November 2016
Date of recommendation	15/12/16
Decision / recommendation	Clear

### Description of Proposal and Site:

- The proposal is for the erection of a single storey building (317.34 square meters) to create two Class 3 (food and drink) units. It also includes the formation of an outdoor seating area, associated car parking and landscaping.
- The site is located within the Queens Drive Retail Park, is designated as a 'Commercial Centre' in the East Ayrshire Local Development Plan 2010, and is located to the south east of Kilmarnock within the settlement boundary.
- The site comprises part of an existing car park located immediately north west of the existing B&Q store, and is adjacent to Queens Drive.

### EIA Development:

- The proposal fits the description of being an urban development project under 10(b) of the table in Schedule 2, but is below the size threshold of 0.5ha. The site is not located within a sensitive area. Therefore the Council's view that no EIA is required is reasonable.

### Consultations and Representations:

- SEPA have objected on grounds the site is within a medium likelihood (0.5% annual probability or 1 in 200 year) flood extent of the River Irvine and require

further information and clarification of flood risk to remove their objection . There have been no other objections and one letter of support.

- SEPA are aware that there have been a number of previous flood assessments for the area. They encouraged the applicant to use these with a caveat regarding a potential requirement for updating hydrological and hydraulic modelling to demonstrate the proposal is consistent with SPP. A previous SEPA objection to the proposal sought further clarification on assumptions and requested information to: 1) demonstrate that the site accords with SPP and updated Flood Risk Assessment (FRA); 2) safe egress by foot and finished floor levels incorporate freeboard allowance (500-600mm; and 3) confirm any infilling taking place and that works meet with technical guidance on land raising. SEPA wish to receive clarification before they would consider removing their objection, and therefore object on the grounds of insufficient information.
- The Ayrshire Roads Alliance (ARA), the Flood Prevention Authority, were consulted by the Council on flooding matters. They have no objections as they consider there was sufficient information. They make the following observations: 1) the applicant has designed the proposal around the Queens Drive Flood Risk Assessment - while there is a new assessment being drafted it is thought that it is over predicting true flood extents, the correlation between the two provides confidence in regard to the original data; 2) attenuation will take place through measures sited adjacent to the development and would accept flood waters as the undeveloped site would have done; 3) with regard to the freeboard, 300mm is considered satisfactory due to the peculiarities of the site. In their view, the 500mm suggested by SEPA would increase impact on the flood plain as the proposed building would have a finished floor level higher than the surrounding buildings.
- The Scottish Government's flood risk team having considered the documentation associated with this case do not consider that the application should be called in. They conclude that the Council as the Flood Prevention Authority accepts the proposal and the validity of the original flooding data used by the applicant. They are also satisfied regarding flood attenuation as a result of the proposal and the proposed finished flood level of the building which is in line with the surrounding buildings. They highlight that the applicants flooding/drainage statement considered that there is no consequential loss of available floodplain storage. The statement also considers that the development proposal does not present any significant probability of increase of flooding within the existing site or elsewhere, and with regard to flood risk the proposal is in line with SPP. They note the council's Report of Handling states that taking into account the advice from the Ayrshire Roads Alliance, the applicant has undertaken assessment with regard to flood risk and it is considered that further assessment will bring about no significant new information and will only bring cost and uncertainty.

### **Assessment:**

1. The Council are minded to grant planning consent for this proposal against advice of SEPA and the application has been duly notified to Scottish Ministers as a result of that objection. SEPA's objection relates to the lack of information provided by the applicant and that the proposal is in a medium likelihood of

1:200 year flood event. That is 0.5% annual risk of a flood event occurring in any one year.

2. The Council has fully considered this application in light of SEPAs objection, Development Plan policy and other relevant material considerations. The Council's officers in their assessment have found that the proposal complies with all the relevant policy from both the Ayrshire Joint Structure Plan(2007) and the East Ayrshire Local Plan (2010) as well as the policies contained within the East Ayrshire Local Development, which has recently completed Examination.. The relevant policies cover flooding, town centres, economic development, design and siting, car parking, and impact on local amenity, landscape character, natural and built heritage. In determining this application the Council have also had regard to the locational requirements of the proposal, which lies within an established retail park.
3. The Ayrshire Roads Alliance is satisfied with the flood risk data provided by applicant, the flood attenuation and freeboard level. In determining this application the Planning Committee considered that in this instance SEPA are being overly restrictive as it has been demonstrated by the Council that the applicant has designed the proposal around the Queens Drive Flood Risk Assessment. The Council's Report of Handling considered that further assessment based on this minor, of size and scale, development proposal will bring about no significant new information and will only bring cost and uncertainty.
4. Following notification the Scottish Governments Flooding Policy Team were consulted and do not recommend the application is called in. They have no issues with the way that flood risk has been assessed and are satisfied with the Council's recommendation to grant.
5. It is considered that this application raises no issues of national importance that would warrant intervention by Scottish Ministers.

**Decision/Recommendation:**

- It is recommended that the application be cleared back to East Ayrshire Council.