

Case reference	NA-ORK-027
Application details	Convert redundant store to four flats
Site address	42 Junction Road, Kirkwall
Applicant	William N Stevenson
Determining Authority	Orkney Islands Council
Local Authority Area	
Reason(s) for notification	Category 2 (Objection by Government Agency) (SEPA)
Representations	2
Date notified to Ministers	7 January 2019
Date of recommendation	28 January 2019
Decision / recommendation	Call in

### Description of Proposal and Site:

- Planning permission (18/267/PP) is sought to convert and extend a redundant store at 42 Junction Road, Kirkwall, Orkney to accommodate four self-contained flats. The proposal also includes the demolition of an existing lean-to shed.
- The site is located within the settlement boundary of Kirkwall, where there is a general presumption in favour of residential development, including infill development and the conversion and redevelopment of derelict buildings.

### EIA Development:

- The proposed development falls below the threshold for EIA development, so did not need to be screened.

### Consultations and Representations:

- Scottish Environmental Protection Agency (SEPA) object to the proposed development on the grounds that it may place buildings and persons at flood risk, which is contrary to Scottish Planning Policy (SPP).
- The Council's Engineering Services as their Flood Prevention Authority object due to flood risk.

- Two local residents objected to the proposed development. These objections did not relate to flooding concerns.

### **Scottish Government Flood Risk Management Team**

- The Scottish Government Flood Risk Management Team raise concerns that the Council are minded to approve the application, with the knowledge that two of the properties are at a medium to high risk of flooding and no mitigation measures are proposed. Therefore, they recommend that the application be called in.

### **Assessment:**

1. As SEPA object on flood risk grounds, this application has been notified to Scottish Ministers to ascertain whether there are any issues of national importance which warrant them calling in the application for their own determination.
2. The area where the proposed development is, has a history of flooding from a combination of surface water and small watercourses, which are culverted through parts of the town and can overflow during heavy rain events.
3. SEPA and the Council's Engineering Services both raised concerns that the proposed development is at risk of both surface water and fluvial flooding from a nearby watercourse. SEPA specifically highlight that, because the proposal is to convert and extend a redundant store into 4 flats, this is considered a more vulnerable use than the existing, or previous use. Therefore, SEPA do not consider the development to be acceptable given the level of flood risk.
4. The proposed finished floor level of the development is 2.25 metres Above Ordnance Datum (AOD). However, SEPA highlight that their current understanding is that a 1 in 200 year flood event would likely flood the area to a level of 2.6 metres AOD. The Council in their committee report acknowledge that flooding of this severity occurred in October 2006 and smaller floods have occurred on numerous other occasions.
5. The committee report highlights there have been discussions between the Council and the applicant's agent, to achieve a design that would meet the recommended finished floor levels of 2.8 metres AOD. Draft plans were prepared and comments from SEPA and the Council's Engineering Services indicated that this could address their concerns. These works involved changes to the floor plan to accommodate the raised floor level. However, the applicant decided not to go with these altered plans and continued with the original plans. Therefore, SEPA and the Council's Engineering Services maintain their objection.
6. Members asked for this application to go to Committee rather than being determined at officer level. Members were of the view that the surface water flooding issues will be addressed in the near future, by planned Council improvements of surface water flood measures. The planning committee were subsequently minded to grant the application highlighting that the redevelopment of a prominent site would contribute to the regeneration of the town centre.

7. The committee report explains that a Surface Water Management Plan (SWMP) is due to be published in June 2019. The SWMP would identify actions required to reduce the risk of surface water flooding in Kirkwall. However, it is not yet known when identified actions would be carried out, or the implications in terms of advice to developers. However, the committee report sets out that it would be inappropriate and premature to allow piecemeal development, which is contrary to current surface water and fluvial flood risk advice, before the SWMP has been produced.
8. The Scottish Government Flood Risk Management Team (FRMT) highlight their concern that in most circumstances, applicants include measures to mitigate flood risk, but in this case, the applicant has decided not to. The FRMT highlight that as one of the main policy principles of the planning system is to prevent development which would have a significant chance of flooding, this proposal runs contrary to SPP. More specifically, SPP paragraph 259 states that developers should take into account flood risk and the ability of future occupiers to insure development before committing themselves to a site or project, as applicants and occupiers have ultimate responsibility for safeguarding their property.
9. In light of the above, we consider that the proposed development potentially raises issues of national importance as two of the properties are at a medium to high risk of flooding and no mitigation measures are proposed. We therefore consider that this application would benefit from further scrutiny by Scottish Ministers.

**Decision/Recommendation:**

- It is recommended that this application is called in.