



Case reference	NA-SLS-066
Application details Site address	Erection of coffee shop with drive-thru facility, associated car parking and landscaping Land 100M West of McDonalds, Dalmarnock Trading Estate, Dalmarnock Road, Rutherglen, Glasgow
Applicant Determining Authority Local Authority Area	Rubicon Land Ltd South Lanarkshire Council
Reason(s) for notification	Category 2 (Objection by Government Agency) (SEPA)
Representations	Nil
Date notified to Ministers Date of recommendation	2 April 2019 24 April 2019
Decision / recommendation	Clear

- Planning Permission is being sought for a coffee shop (Starbucks) and drive-through with associated car parking and an external seating area.
- The application site is land adjacent to a Tesco Superstore and petrol filling station, and existing McDonalds and KFC drive-through restaurants on the northern edge of Rutherglen. The site has been lying vacant for several years. It is residual land from the superstore and industrial/business development, known as Rutherglen Park or Dalmarnock Trading Estate. To the north of the site, a flood defence barrier exists and beyond to the River Clyde. To the west lies another vacant piece of land where a Class 1 Non-food Retail unit is currently proposed by the same applicant?, also under consideration (Planning Reference NA-SLS-065).
- The site is within a Core Industrial and Business Area in the adopted South Lanarkshire Local Development Plan (SLLDP).

#### EIA Development:

- As the development is below the threshold for Environmental Impact Assessment, it did not need to be screened.

#### Consultations and Representations:

- The Scottish Environmental Protection Agency object on the grounds that it may place buildings and persons at flood risk, contrary to Scottish Planning Policy (SPP).

- The Council's Flood Risk Team have reviewed SEPA's objection. Based on SEPA's new policy on development behind flood defences, because the existing flood barriers were not promoted as a formal flood protection scheme, SEPA does not have a record of their existence. As a result, SEPA has assessed the area as being at an unacceptable risk of flooding. The Council have been provided with the construction information and independent technical assessment of the flood protection bund at this location, which was constructed at the time of the completion of the Tesco development, which has been passed to SEPA for their review. This bund has been in place for several years and has been incorporated within the River Clyde hydraulic models, which show this location to be outwith the functional flood plain. This information has been used in the determination of previous planning applications in this area, which were deemed satisfactory by SLC and SEPA. The Council's Flood Team do not have any objection to the proposed development on flood risk on the basis there has been no change to their understanding of the flood risk in this area, other than the release of SEPA's "Development behind flood defences" document.
- Following notification to Scottish Ministers, the Scottish Government Flooding Policy Team were consulted and do not consider that the proposed development should be called in for decision by Scottish Ministers as the development does not raise any issues of national importance.
- The committee report highlights that no objections were received following neighbour notification and advertisement.

**Assessment:**

1. As SEPA object on flood risk grounds, the application has been notified to Ministers to ascertain whether there any issues of national importance which warrant them calling in the application for their own determination.
2. The site is located within a low lying area adjacent to the River Clyde. There is an historic record of flooding in 1994. SEPA's indicative flood maps, show the site to be at medium risk of flooding (1 in 200 year). This is the undefended flood outline and does not consider the flood barriers currently in place adjacent to the site.
3. SEPA provide three main points of justification for their objection:
  - SEPA consider that the flood barriers in place should be discounted as they are not a formal flood protection scheme and therefore do not meet the criteria set out in their Planning Advice Note 4 on development behind formal flood defences. SEPA would consider removing their objection to the proposed development if the flood defences are formalised under the relevant legislation. SEPA are unaware of a tested mechanism for this course of action.
  - SEPA are concerned that there will be an increase in the land use vulnerability classification of the site. SEPA characterise the site as vegetated open ground rather than industrial/commercial because it has been left undeveloped for around 10 years. The site is designated in the Local Development Plan as Core Industry and Business.
  - SEPA consider the hydraulic model used in the FRA (River Clyde Flood Management Strategy (RCFMS)) to be outdated and do not recommend that it be used for land use planning purposes. SEPA state that a significant amount of additional hydrological data is now available and understanding of climate change has progressed. As a result,

the site is potentially at risk during the 1 in 200 year flood event and is also noted as sensitive to climate change.

4. Two sites adjacent to the proposed development, also shown at medium risk of flooding on SEPA's maps, were approved in 2014 and 2015 respectively. There was no objection to development of these sites on the grounds of flood risk from the Council's Flood Risk Management (FRM) team or SEPA, due to the presence of flood barriers. The Council's FRM team has maintained this position for the proposed development site. They do not consider that the proposed development would increase vulnerability and consider the modelling information to be the best available until a new hydraulic model for the Clyde is produced.
5. The remaining area of contention is therefore around the status of the flood barriers. The proposed development site is protected by two flood barriers, upstream and downstream of Dalmarnock Bridge. At the time of their design, both barriers provided a 1 in 200 year standard of protection. South Lanarkshire Council have no responsibility for annual inspection or ongoing maintenance of either barrier. Clyde Gateway own the upstream barrier, but it is unclear who now owns the downstream barrier immediately adjacent to the development site as its previous owner Vico Properties Ltd was dissolved in 2017.
6. The Scottish Government's flood risk management team are satisfied that sufficient evidence has been provided to confirm the level of defence and suitability of the flood barriers. The barriers were built to provide protection to the whole retail park, and the proposed development and its neighbour will close out the two remaining spaces within the park. Nevertheless they retain some concern around residual risk, due to uncertainty around ownership of the barrier, and climate change. Breach or overtopping of the flood barrier would result in inundation and to a significant depth (around 1.5 -1.6m).
7. South Lanarkshire Council's flooding team recommend that finished floor levels are set 1m above the 1 in 200 year (+ 20% allowance for climate change ) water level when development is adjacent to a watercourse. Sign up to SEPA flood warning, and production of an emergency evacuation plan is also recommended. The Scottish Government Flood Risk Management Team considers that the proposed development does not raise any issues of national importance.
8. In light of the above information, it is not considered that this proposal raises any issues of national importance to warrant intervention by Scottish Ministers.

**Decision/Recommendation:**

- It is recommended that this application be cleared back to South Lanarkshire Council.

