

Review of SG LSD 8: Flooding and Erosion

1. Introduction

- 1.1 The purpose of this paper is to review supplementary guidance *Layout, siting and design 8: Flooding and erosion* (LSD8) to assess how it accords with national policy in view of any changes, and if it continues to provide a suitable basis for guiding development in locations and on sites that are vulnerable to flooding and erosion.

2. Policy Approach

- 2.1 The current policy approach involves a presumption against development on any land that is at risk from flooding (such as a functional flood plain), is required for long term managed retreat from areas at risk of flood, or is at risk from erosion. Exceptions may be permitted where it can be demonstrated through an appropriate technical assessment that there is neither a medium or high risk of flooding, or it is in a location where adequate existing flood prevention measures are in place. An exception is provided for essential or flood prevention infrastructure.
- 2.2 If development *is* permitted on land that is at risk from flooding, it must – incorporate a flood resilient design, not affect the capacity of any existing flood plain, or increase the risk of flooding elsewhere. In addition, the proposal must avoid culverting or other interference with any water courses. LSD 8 concludes that a precautionary principle must be applied in areas considered to be at risk from inundation by flood water or erosion.
- 2.3 LSD8's reasoned justification provides further information detailing the main principles outlined above. Appendix 1 contains a glossary of types of flooding and Appendix 2 refers to the Flood Risk Framework outlined by Scottish Planning Policy (SPP).

3. Background

National context

- 3.1 Scottish Planning policy (SPP) provides the main national guidance in relation to flooding in accordance with the Flood risk management (Scotland) Act 2009. SPP states that '*Development which would have a significant probability of being affected by flooding or would increase the probability of flooding elsewhere should not be permitted*', however it is acknowledged that small scale extensions or alterations of buildings are unlikely to have significant effects.
- 3.2 SPP highlights that even locations which are not deemed to be at risk from flooding, can be susceptible as a result of exceptional or extreme circumstances. '*It is therefore not possible to set planning policy and determine applications solely according to the calculated probability of flooding. Developers and planning authorities should take a precautionary approach in taking decisions when flood risk is an issue*' (SPP, 2010).
- 3.3 The role of functional flood plains to the wider flood management is also highlighted by SPP. It states that development should only be permitted on

flood plains where it will not affect its function to store and convey water and the development itself will not be at risk or increase the risk of flooding elsewhere.

- 3.4 SPP provides a flood risk framework to guide planning decision making in relation to flood risk. It outlines 3 flood risk categories and the appropriate responses for each case. This framework is provided in Appendix 2 of SG LSD8.
- 3.5 SPP refers to the Flood Risk Management (Scotland) Act 2009 which sets in place the statutory framework's approach to managing flooding. This involves assessing the probability and likely impacts of flooding as well as the introduction of catchment focused plans intended to address these issues. Under the Act, 14 Local Plan Districts (LPD) have been created to prepare Flood Risk Management Plans (FRMP) under the guidance of SEPA. FRMP's will provide a basis for guiding local/regional policy and development both through the development plan and in planning decision making and are required to comply with SEPA's Flood Risk Management Strategies (which will be produced for each of the LPD's). Once formally adopted, the development plan and its policies will be required to comply with the districts Flood Risk Management Plan.
- 3.6 SEPA currently provides indicative flood maps as a basis for identifying flood risk areas. However, as a means of improving the delivery of the Act, SEPA have now produced Strategic Flood Hazard Maps (which for Aberdeenshire's should be available early Feb 2013). According to SEPA, these maps '*will present the best national source of information of flood hazard across Scotland*'. Therefore, the LDP's flooding policy should refer to these as a consideration when assessing development proposals.

Strategic/regional context

- 3.7 The current draft of the Aberdeen City and Shire Strategic Development Plan (SDP) acknowledges the increased risk of flooding currently being encountered within the region and the importance of reducing flood risk. The plan aims to '*avoid developments on land which is at an unacceptable risk from coastal or river flooding (as defined by the 'Indicative River and Coastal Flood Map for Scotland' or through a detailed flood risk assessment), except in exceptional circumstances*'.
- 3.8 It is anticipated that this will be achieved by the careful allocation of sites by the Local Development Plan that are not at an unacceptable risk of flooding – '*except for brownfield sites which have appropriate flood prevention measures in place*'. It is stipulated that 'unacceptable risk' is usually considered to be in greater than a 1 in 200 (0.5%) chance of a flooding in a year.

4. Drivers of change

- 4.1 Bad weather events have recently caused significant damage and flooding to a number of areas within Aberdeenshire. More frequent and extreme weather events may mean that development proposals in areas at risk from flooding (as well as some that are not) will require more rigorous assessment.
- 4.2 As the policy currently stands, it is consistent with Scottish Planning Policy and the proposed Strategic Development Plan. It promotes the core principles outlined by SPP and seeks to avoid development in areas that are at risk from flooding providing a sound basis for decision making.

- 4.3 In addition, SG LSD8's appendixes are also considered to be consistent with national policy and it is not considered that any changes to these are required. The revision of Scottish Planning Policy as well as any future changes to SEPA's technical Flood Risk Guidance for Stakeholders will be monitored and the appendixes will be updated to reflect these if required.
- 4.4 However, one point which is outlined by SPP, is the application of the precautionary principle in relation to decision making for proposals at risk from flooding. The current policy states in its final paragraph that the precautionary principle should be applied when assessing proposals in areas '*at risk from inundation by flood water or erosion*'. However, taking into account the flooding events that have been experienced within the region, it should be assessed whether the precautionary principle should be more rigorously applied and emphasised in the policy. The reasoned justification does state that '*the uncertainty of flood prediction makes it essential that developers and planning authorities err on the side of caution in decision-making*'. However, it is considered that this principle needs to be at the forefront of the SG LSD8.
- 4.5 In addition, due to the correlation between climate change and flooding, it may be prudent to consider flooding within the overarching climate change policy which is being proposed.
- 4.6 As part of the delivery of the Flood Risk Management Act, there are also some areas which may be subject to change in light of more recent information and to ensure an overall consistent approach to flood risk management. SG LSD8 will be required to adhere to and promote compliance with the FRMP for the Aberdeen city and shire area once it is formally adopted. According to SPP, they are not anticipated to be in place until 2015 however this will mean that the 2016 LDP should take account of it. It is therefore suggested that SG LSD8 is amended to refer to and if possible ensure compliance with the FRMP.
- 4.7 In addition, the creation of new flood hazard maps will provide a potentially more up-to-date and accurate means of identifying areas at risk from flooding and it is considered that the policy's supporting text should refer to these.

5. Recommendations

- 5.1 On the basis of this information, it is recommended that;
- SGLSD8 is amended to state in the outset of the policy that the precautionary principle should be applied when considering any proposal which may be at risk from flooding. A potential way of incorporating greater 'precaution' into the context of this policy would be to consider anything above a category one (little or no risk) to be at risk from flooding and would warrant the application of greater caution.
 - The supporting text of SG LSD8 makes reference to the forthcoming Flood Risk Management Plans which are being prepared throughout Scotland. Once adopted, SG LSD8 will be required to comply with the FRMP as part of the delivery of the Flood Risk Management Act and a more sustainable and integrated approach to flood management. It is suggested that the reasoned justification states that 'Proposals must accord with the regions Flood Risk Management Plan'.
 - The reasoned justification should also refer to the new strategic flood hazard maps as a means of more accurately identifying areas of flood risk.

6. Summary of main points

6.1 SG LSD8 currently provides a robust policy which guides development in areas that are at risk from flooding or erosion. In compliance with national policy, SG LSD8 presumes against development located in areas at risk of flooding. It provides a list of stringent criteria outlining circumstances when development may be permitted in flood risk areas and appropriate adaptation and mitigation measures. The policy also currently provides SPP's flood risk framework in Appendix 2 to provide guidance on levels of flood risk and appropriate development. Under the Flood Risk Management Act 2009, Scotland has been divided into 14 Local Plan Districts for which FRMP's are being prepared. These are not due to come into force until 2015, however, SG LSD8 will be required to refer to and comply with the plan for Aberdeenshire. Therefore, it is recommended that the supporting text of SG LSD8 is amended to reflect this. In addition, it is suggested that the policy is amended to ensure the application of the 'precautionary principle' to all developments that have a more than a little or no risk of flooding. Finally, reference should be made to the new strategic flood hazard maps in the reasoned justification which have been created by SEPA as a guide for improved flood risk indication.

References

Aberdeenshire Council (2012) *Aberdeenshire Local Development Plan 2012*

Aberdeen City and Shire Strategic Development Plan Authority (2013) *Draft Strategic Development Plan*

Flood Risk Management (Scotland) Act 2009

Scottish Government (2010) *Scottish Planning Policy*

SEPA (2011) *National Flood Risk Assessment*

SEPA (2012) *Review of flood hazard maps*

http://www.sepa.org.uk/flooding/flood_risk_management/consultations/flood_hazard_maps.aspx (Accessed 04/02/2013)

SEPA (2012) *Flood Risk Management Planning in Scotland: Arrangements for 2012 – 2016*