

**Planning Statement**  
**Planning Application 24/00752/APP**  
**Formation of Restaurant and Car Park**  
**Former Public Convenience, North Shore Road, Troon**



**5<sup>th</sup> February 2025**

## Contents

1.0	Introduction .....	3
2.0	Preliminary Matters .....	3
3.0	The Proposal and Site History.....	4
4.0	The Development Plan.....	6
4.2	NPF4.....	6
4.3	SALDP2.....	9
5.0	Flood Risk – Assessment of Issues .....	9
5.1	SEPA Consultation Response .....	9
5.2	NPF4 – Policy 22 (Flood Risk).....	10
5.3	Case Examples.....	13
5.4	Flood Mitigation and Evacuation Plan .....	15
6.0	Conclusion .....	16
Appendix A	Applicant Photos of Site (25 <sup>th</sup> January 2025, post Storm Eowyn)	
Appendix B	Scottish Government Planner Assessment Report – Aldi Stores, West Dunbartonshire Council, DC23/217/FUL	
Appendix C	West Somerset Council Flood Warning and Evacuation Plan Template	

## **1.0 Introduction**

- 1.1.1 Gillian Baillie Planning Limited was commissioned in January 2025 by Mrs Dorothy Birks to provide a review and planning advice in respect of her current planning application for the erection of a new building to form a restaurant, and change of use of open space to form car park on the site of the former public convenience, North Shore Road, Troon.
- 1.1.2 In brief, the site is the subject of a previous planning permission granted in 2015 for the erection of a restaurant building, which has not been implemented. A further planning application was submitted in October 2024 for a similar layout and design. SEPA has objected to this current planning application on the grounds that the application does not comply with Policy 22 of National Planning Framework 4 (NPF4) on flood risk management.
- 1.1.3 This report sets out our understanding of the background to this application and the terms of the SEPA objection. It provides an assessment of policy and other considerations which it is respectfully suggested are taken into account prior to the Council's determination of this application.

## **2.0 Preliminary Matters**

- 2.1.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 as amended (the Act) requires all planning decisions to have regard to the development plan and be made in accordance with its provisions, unless material considerations indicate otherwise.
- 2.1.2 The development plan is comprised of National Planning Framework 4 (NPF4) (adopted February 2023), and the South Ayrshire Local Development Plan 2 (adopted August 2022). Both of these plans contain policies which set out the framework for assessing and determining planning applications.
- 2.1.3 Section 24 of the Act confirms that in the event of any incompatibility between the provisions of the National Planning Framework and a local development plan, whichever is the later in date shall prevail. In this case, NPF4 takes precedence if there is incompatibility. It is noted that the SEPA objection refers only to Policy 22 of NPF4, therefore this statement focuses on Policy 22 rather than the SALDP2 Policy 'Flood and Development'. Whilst it is not considered that these policies are incompatible (in that they contradict one another), Policy 22 is the more recent policy and contains additional detail on how development is assessed in relation to flood risk.

- 2.1.4 The Chief Planner for Scotland issued guidance to planning authorities in February 2023 on the transitional arrangements and application of NPF4. This states:

*“Section 25 of the 1997 Act requires that decisions are made in accordance with the development plan unless material considerations indicate otherwise. Application of planning judgement to the circumstances of an individual situation remains essential to all decision making, informed by principles of proportionality and reasonableness.*

*It is important to bear in mind NPF4 must be read and applied as a whole. The intent of each of the 33 policies is set out in NPF4 and can be used to guide decision-making. Conflicts between policies are to be expected. Factors for and against the development will be weighed up in the balance of planning judgement.”*

- 2.1.5 Scottish Government Planning Circular 3/22 “Development Management Procedures”, Annex A also confirms that when identifying relevant provisions of the development plan, the aims and objectives of the plan should be reviewed as well as the detailed wording of policies. Material considerations are wide-ranging and are specific to an individual case, but can often include Scottish Government policy, advice and guidance, non-statutory planning policies, draft policies, environmental and infrastructure impacts and design, planning history of the site, consultee views and legitimate public concern.
- 2.1.6 This is an important aspect to consider. As discussed in Section 5.3 below, it is not incumbent on planning authorities to refuse an application because of SEPA’s objection in relation to Policy 22. Indeed there are multiple cases where planning authorities have approved applications with an objection being raised. However it is necessary for the planning authority to carefully consider the terms of SEPA’s advice and concern as part of a holistic assessment of a proposal against the relevant provisions of the development plan and other material considerations.

### **3.0 The Proposal and Site History**

- 3.1.1 Planning application 24/00752/APP was submitted to South Ayrshire Council (SAC) on 7th October 2024.
- 3.1.2 The proposal is for the erection of a single storey building and part change of use of existing open space to form a Class 3 (Food and Drink) restaurant with associated car parking. The application site is on the west side of North Shore Road on an area of land formerly owned and operated by SAC as a public convenience and trampoline area. The former public convenience building was vacant and disused when the land was purchased by the applicant from SAC, and has subsequently been demolished.
- 3.1.3 The site is now a mix of hardstanding, rubble and grass and includes a small car parking area still owned by SAC. It is surrounded by the wider area of public open greenspace which lies between North Shore Road and Barassie Beach. Across the opposite side of North Shore Road, the character of the area is predominantly residential but with local neighbourhood facilities including a shop and Post Office, takeaway, and Barassie Primary School within close proximity.

- 3.1.4 The proposed single storey building is generally situated on the footprint of the former public convenience building and trampoline area. It will provide a restaurant and walk-in café area with associated kitchen and service facilities. Car parking would be provided at the adjacent existing SAC car park which would be expanded into a small area of the adjacent open space. It is understood that SAC has previously confirmed in principle that this can be leased.
- 3.1.5 A Flood Risk Assessment (FRA) was submitted with the application (Kaya Consulting, 2021). This identified that there is flood risk associated with extreme sea levels and waves. As per the recommendations of the FRA, the Finished Floor Levels (FFL) for the site are raised above 5.45AOD so that they will be 600mm above the 1 in 200 year + climate change flood level plus an allowance.
- 3.1.6 The application was also accompanied by a Design Statement, Ecological Appraisal, and a Travel Plan.
- 3.1.7 Planning Permission 15/00577/APP was previously granted on September 2015 for “*the change of use and alterations and extension to public convenience to form restaurant (Class 3) food and drink and associated change of use of open space to form car park*”. Whilst the description refers to change of use and alterations and extension, it is clear from the approved drawings that the proposal was for demolition and erection of a replacement building. The report to the Regulatory Panel notes the description but states “*this is shown on the submitted drawings to take the form of a new building*”. It is not known why there is a discrepancy between the description and the works proposed, but nevertheless the assessment of that previous application did consider the erection of a new building.
- 3.1.8 The scale, footprint and design of the approved building are similar to the current proposal. A visible difference is the FFL which has been raised in response to the recommendations of the Flood Risk Assessment and allows for a ‘flood zone’ under the current proposed design, resulting in an increase in height of 600mm from the previous approval. Both schemes provide a single storey appearance for the restaurant and café facilities which is consistent with the scale of the former public convenience.
- 3.1.9 The 2015 permission was assessed against the previous South Ayrshire Local Development Plan. The policy provisions of that plan were similar to those currently in SALDP2 in respect of this site. It is noted from the Panel Report (part 7(i)) that it was concluded:
- The proposal accords with the SALDP Spatial Strategy, as it comprises development within the settlement of Troon and offers “*the opportunity to sensitively improve the scenic and environmental quality of the area, whilst protecting the foreshore*”.
  - The site was within a larger area designated as open space, however regard was given to factors including that the proposal was for the re-development of brownfield land which had been sold by the Council and is now in private ownership, and that the small extension of the car park would not compromise the wider integrity or setting of the overall public open space.

- Under the SALDP coastal policy, the report noted that the site lies within an area identified as ‘partly developed’ coast, characterised by unobtrusive formal visitor facilities and informal recreation. The SALDP presumed in favour of very small scale developments which integrate well with existing land uses and complement the surrounding environment. As the new building was proposed on the existing envelope of the former public convenience and trampoline area and is brownfield land, it was assessed as broadly in accordance with the coastal strategy.
  - The proposal aligns with the SALDP tourism policy to provide and improve tourist and leisure facilities.
- 3.1.10 A Flood Risk Assessment was provided with the 2015 application which also identified flood risk associated with extreme sea levels and waves and recommended minimum floor levels. SEPA offered no objection to the proposal or the proposed mitigation measures.

## **4.0 The Development Plan**

- 4.1.1 Prior to discussing the SEPA response and a detailed review of NPF4 Policy 22 which underpins their objection, other policies which are relevant are summarised below.

### **4.2 NPF4**

- 4.2.1 NPF4 sets out a spatial strategy for Scotland for sustainable, liveable and productive places, which is underpinned by six spatial principles. Of particular relevance to this proposal, NPF4 promotes spatial principles of local living, and compact urban growth. This includes improving access for communities to facilities and services which improve health and wellbeing (including leisure and recreational uses, and greenspace), optimising the use of land to provide services and resources including flood risk management, blue and green infrastructure, and biodiversity.
- 4.2.2 The proposal will complement local living principles. Although most Class 3 Food and Drink facilities are located in or adjacent to the town centre, other establishments are located throughout Troon in wider residential and mixed use areas. These include the Piersland, Marine and South Beach Hotels, Scotts, and The Loans. The former Towers Hotel was a local establishment for residents around the North Shore Road and Barassie areas, but since its closure there has been no replacement provision serving this area of the town. The proposed restaurant and café would return this opportunity to the northern area of the town. The submitted Travel Plan (Livingstone & Partners Limited) demonstrates that the site is well located in terms of its accessibility to local footpaths and cycle networks and bus access. It is also within 800m walking distance from Barassie Station.
- 4.2.3 In terms of the NPF4 principle of compact growth, positive factors which are weighed in the balance are that it is within an existing settlement and will result in the positive re-use of previously used land. It will integrate with and provide ancillary services which complement the recreational and tourism value of Barassie Beach and the extensive greenspace and active travel links. The principle of compact growth also

includes sustainable flood risk management, and this is discussed in detail in Section 5 below.

4.2.4 The following policies are relevant to the proposal:

- Policies 1 and 2 on the global climate and nature crises, and siting and designing development to minimise GHG emissions and adapt to climate change: This is a small-scale development within an existing settlement on previously used land. It is in an area of identified flood risk (along with a much broader area of the coast along North Shore Road), but it is not considered this development compromises the objectives of policy 1. The design of the proposed development has taken into account the recommendations of the Flood Risk Assessment to ensure that the floor level is above predicted levels (allowing for climate change), and allows for the free flow of flood water if a major event occurs. The design statement confirms that the building would be designed to meet current building standards in terms of energy performance, and further consideration on the potential for micro-renewables will be given at that stage.
- Policy 3 on biodiversity seeks to conserve, restore and enhance biodiversity value. Part (c) explains that such measures should be proportionate to the nature and scale of development. The ecological appraisal which has been submitted with the application identifies that no designated sites or priority habitats are affected. It recommends construction mitigation measures to ensure that adjacent scrubland which is of higher ecological value is protected via a Construction Ecological Management Plan, and precautionary measures for hedgehogs which may be present. In terms of biodiversity enhancement, the report recommends the installation of bat and bird boxes on the new building. Given the proposed development is predominantly on brownfield land and will not result in the loss of any notable biodiversity value, such measures are proportionate and reflective of the wider open space nature of the area.
- Policy 9 on brownfield, vacant and derelict land and buildings. The proposal is supported by this policy, which promotes the sustainable reuse of brownfield land. The ecological appraisal of the site has found the grass on the site (including the areas where re-growth has occurred over the former building area) is not of particular value, with limited potential for species.
- Policy 10 on coastal strategies supports development in developed coastal areas provided there is no need for further coastal protection measures, and it is anticipated to be supported in the long-term taking into account projected climate change. No coastal protection measures are required as a result of this proposal. The assessment under Policy 22 in Section 5.2 below outlines that mitigation measures to manage the long term operation of the restaurant and café can be implemented.
- Policy 14 supports development which improves the quality of an area and is consistent with the six qualities of successful places. The re-use of this brownfield site which will integrate well with the wider recreational and open space uses at Barassie Beach, the local active travel network, and will provide enhanced facilities for local residents particularly in the Barassie and North

Shore Road areas. The Design Statement describes the principles which have informed the design including taking reference from the coastal context, active frontages and a contemporary appearance.

- Policy 15 on local living and 20 minute neighbourhoods. As discussed above, the application supports local living due to its accessible location and proximity to active travel and public transport links. It re-introduces hospitality and services to a part of the town which has lost local provision since the closure of the Towers Hotel. It is also closely located and will complement existing local neighbourhood services including the shops and Barassie primary school on the opposite side of North Shore Road.
- Policy 20 on blue and green infrastructure. The site is designated as part of the wider area of open space along the west of North Shore Road. However as previously assessed for the 2015 permission, it is predominantly in private ownership following the sale of the former public convenience and trampoline site by the Council. It is a previously used, brownfield site and the small scale nature of the proposal will not result in any fragmentation or deficit of the wider open space provision. The assessment which led to the approval of the 2015 application for a restaurant and café on the site concluded that it would not compromise the wider integrity or setting of the open space. It is submitted that the same conclusion is relevant now, and the application complies with this policy.
- Policy 27 which promotes a range of commercial, leisure and other development in city and town centres. The application is for a small-scale local restaurant and café, and therefore whilst it is not located within the identified town centre, it does not contradict the intent or provisions of this policy as it would not generate significant footfall.
- Policy 30 requires that tourism-related development takes account of various factors. A restaurant and café is not a tourist development, but it will complement the current tourism value of the recreational and coastal setting at Barassie Beach. It is development which is small-scale and therefore compatible with the current visitor levels to the area and which will not detract from the amenity of existing residential areas on the east of North Shore Road. It can integrate well with local walking and cycling networks and the wider recreational use of the open space and beach. Overall the application is supported by this policy.

4.2.5 In summary, the application is broadly supported by policies of NPF4. Policy 22 on Flood Risk is addressed in the next section.

### 4.3 SALDP2

- 4.3.1 SALDP2 was adopted in 2022, and has replaced the previous SALDP against which the previous 2015 application was assessed. However, its provisions in respect of this site are broadly similar in that the site lies within a wider area of open space, which is also identified as ‘partly developed’ in the Coastal Strategy. The terms of the assessment of the previous application, which found the proposal to be in accordance with the SALDP (see 3.1.9 above), are still applicable to this proposal when assessed against SALDP2.

## 5.0 Flood Risk – Assessment of Issues

### 5.1 SEPA Consultation Response

- 5.1.1 SEPA’s consultation response to this application, dated 7<sup>th</sup> November 2024 explains that SEPA objects in principle to the application, and recommends refusal because the proposed development may put people or property at risk of flooding which is contrary to national planning policy.
- 5.1.2 The letter summarises the shared duty of Scottish Ministers, SEPA and other responsible authorities under the Flood Risk Management (Scotland) Act 2009 to reduce overall flood risk and promote sustainable flood risk management. It notes that avoiding flood risk as a first principle is the cornerstone of sustainable flood risk management, and confirmed in NPF4.
- 5.1.3 We note that SEPA has caveated that their response is limited to the assessment of flood risk. It is stated “*we do not consider lapsed planning permission, and we generally do not consider extant planning permission, to be relevant factors in our assessment of planning consultations*”. The letter rightly notes that these are matters for the Planning Authority, who may take them into account in the balancing exercise required under Section 25 of the Act.
- 5.1.4 A detailed assessment of the proposal in relation to Policy 22 is provided in Section 5.2 below, and this considers the specific points raised in the SEPA objection in more detail. In summary, SEPA has advised that the site is fully at risk of flooding from the sea based on their Future Flood Maps in a 1 in 200 year flood event. Whilst the proposed design seeks to mitigate the risk of flooding by elevating the finished floor level above the design flood level, this will not provide safe, flood free access and egress between the development site and a place of safety outwith the design flood level. It therefore does not accord with the flood risk and water management policy intent set out in the preface to Policy 22. It also does not accord with Policy 22 part (a) because it would also create an ‘island of development’ in a flood event and is not in accordance with relevant SEPA guidance in their Position Statement: Elevated buildings in areas of flood risk.

## 5.2 NPF4 – Policy 22 (Flood Risk)

- 5.2.1 NPF4 explains that the intent of Policy 22 (Flood Risk and Water Management) is to strengthen resilience to flood risk by promoting avoidance as a first principle, and reducing the vulnerability of existing and future development to flooding.
- 5.2.2 Following that intent, Policy 22 part (a) sets out the types of development which, in principle, can be supported where they are at risk of flooding or in a flood risk area. As a restaurant and café, the proposal is a type of development which is at risk of flooding, and it is within a flood risk area therefore this part is applicable. The flood risks identified for the application site are in relation to coastal flood risk, including significant wave heights.
- 5.2.3 In relation to the types of development which may be supported in flood risk areas, criteria (iii) and (iv) of part (a) are applicable.
- 5.2.4 Criterion (iii) allows for redevelopment of an existing building or site for an equal or less vulnerable use. The site was formerly used as a public convenience. The building was demolished following the previous 2015 planning permission, to ensure wider public safety as the building was falling into disrepair and was to be removed for the new restaurant.
- 5.2.5 To assess vulnerability, SEPA's guidance note "Flood Risk and Land Use Vulnerability Guidance" (July 2024) is referred. Restaurants and cafes are defined as "Least Vulnerable". The wider area around the site is amenity open space, which falls into the "Water Compatible" category. However, it is also appropriate to consider the former use of the application site, as a public convenience. This is not specifically categorised. However it is considered that a public convenience also falls into the "Least Vulnerable" category, as this includes "Financial, Professional and Other Services" which are now part of Class 1A of the Town and Country Planning (Use Classes)(Scotland) Order 1997 as amended. Although not specifically defined in the Use Classes Order, a public convenience is consistent with a Class 1A Use as it is an 'other service' which is principally provided to visiting members of the public and appropriate in a shopping area.
- 5.2.6 Whilst it is acknowledged that the former public convenience building has been demolished, it is relevant to consider this former use in assessing if there is a change in vulnerability. This approach has previously been confirmed in an appeal decision in Edinburgh, for a student accommodation development on a brownfield site (DPEA Reference PPA-230-2491). In that case, the Reporter determined:

*"However, given this proposal is the redevelopment of a previously used site (under policy 22 part a) iv), with no change in the access position proposed and recently demolished buildings, I consider that the starting point should be whether there is an increased risk of flooding when compared to the previous buildings on the site. These buildings were demolished as part of the extant planning permission for housing. I do not agree with the council that the site should be regarded as a 'new' or empty site when assessing increased risk just because NPF4 has come into play after the previous buildings were removed from the site. In that regard, the revised flood risk assessment shows no increased risk arising from redeveloping when compared to the previous use of*

*the site and the council has not challenged the appellant on that particular element of the assessment. I therefore find that the proposal presents no increased risk to others.” (PPA-230-2491 Appeal Decision Notice, Paragraph 40)*

- 5.2.7 The SEPA Guidance also recommends a range of factors are taken into account in determining vulnerability. We offer the following comments in this respect:
- Type, permanence and design of building: The building is designed as a permanent structure, but design features have been incorporated as per the recommendations of the Flood Risk Assessment to elevate the finished floor level. The area below the FFL incorporates an under building flood zone which allows for the storage of water to the design flood level throughout the lifetime of the development. Detailed structural design to include external openings to increase the free conveyance of water into this area can be undertaken and approved through conditions if deemed necessary.
  - Users of the site: This is a small-scale restaurant and café proposal, for which most users will be customers making short term visits. There will be a small number of staff on site for longer periods during opening hours which would include evenings. However there would be no overnight occupation of the building or people sleeping.
  - Evacuation requirements: SEPA’s concerns with respect to the lack of a flood free evacuation route in a significant flood event are acknowledged. However the site does benefit from SEPA flood monitoring, as it is within a Flood Warning area for Ayr to Troon. Monitoring and early evacuation in advance of a significant flood event can mitigate the likelihood of users being unable to exit the building to a flood free location.
  - Number of properties and wider community impact: A single building, of similar scale to the former public convenience, is proposed. It does not present any notable increase in risks to the wider community.
- 5.2.8 When the previous use as a public convenience is taken into account with the factors above, the development of a restaurant and café would present no increased vulnerability and is consistent in principle with part (a)(iii) of Policy 22.
- 5.2.9 The proposal is broadly compliant with part (a)(iv). It is the redevelopment of a previously used site in a built up area. It is otherwise consistent with LDP policy with mitigation in place. Long term safety and resilience can be secured both in terms of the design of the development and ongoing monitoring and management of the facility during potential flood conditions. However it does not fully accord with relevant SEPA advice on one specific point that the site does not directly adjoin an area not at ‘future’ flood risk (the site is adjacent to the edge of the current flood risk area which does not extend onto North Shore Road).
- 5.2.10 It is noted from review of SEPA’s flood maps and the future flood maps that the medium likelihood of coastal flooding is estimated to extend across North Shore Road but not as far as Burnfoot Avenue which is located directly across from the site. This area is a distance of around 15 metres from the front entrance of the proposed restaurant.

- 5.2.11 The policy further requires that where one or more of the criteria above is complied with, it is necessary to demonstrate a number of other matters.
- All risks of flooding are understood and addressed: *The FRA provided with the application does identify the nature and potential extent of flood risk at the site. In terms of those risks being addressed, suitable design mitigation is applied to allow the occupied parts of the building to remain flood free. It is understood that the main concern relates to the evacuation of the property in a significant flood event, based on future flood risk projections. A flood management and evacuation plan can mitigate this concern.*
  - There is no reduction in floodplain capacity, increased risk for others, or a need for future flood protection schemes: *None of these circumstances are applicable to this case, as demonstrated by the FRA.*
  - The development remains safe and operational during floods: *As noted above, the design of the proposed restaurant and café has incorporated measures to ensure occupants would remain safe during floods. It is not expected the restaurant would remain operational; but rather a flood management and mitigation plan to minimise the risk of the building being occupied during a significant flood event would be appropriate.*
  - Future adaptations can be made to accommodate the effects of climate change: *The design of the proposed building has taken into account a climate change allowance.*
- 5.2.12 Further, the policy has additional criteria for those developments which are accepted under part (a)(iv). Whilst the proposal is compatible with part (a)(iii) above, given the proposal may require flood risk to be managed at the site the following comments are provided:
- The design levels of the building, and an allowance for freeboard are provided.
  - The proposal would not create an ‘island of development’ under current flood risk mapping, but it is acknowledged that it may be under the calculations on SEPA’s future flood risk maps. This appears to be the main point of objection from SEPA. As noted above, the future flood maps do show that North Shore Road could be flooded in a medium (1 in 200 year) flood event, but the land to the east at Burnfoot Avenue would be flood free.
- 5.2.13 In summary, the proposal is generally in accordance with Policy 22 as it will result in the re-development of a previously used site which has no increased vulnerability compared to its previous use. There is a specific point around the potential for the site to be an ‘island of development’ in relation to future flood risk projections. However as set out below, with suitable operational mitigation measures in place such risk could reasonably be managed.
- 5.2.14 The applicant has provided some photographs of the site taken on the 25<sup>th</sup> January 2025, the day after Storm Eowyn. Following this serious (red warning) storm event, there has been no notable flooding at the site. Whilst it is appreciated that this is not indicative that the site would not flood in a 1 in 200 year event in the future, we are not aware of any flood events which have previously resulted in the application site or the

wider green space to be inaccessible due to high flood levels. These photographs are provided in Appendix A.

### **5.3 Case Examples**

- 5.3.1 In cases where planning authorities propose to approve a planning application with an objection in place by SEPA on flood risk grounds, they must notify the Scottish Government before issuing the decision. The Scottish Government may decide to call-in the application.
- 5.3.2 To inform this case, a review of applications which have been notified to the Scottish Government since the adoption of NPF4 and Policy 22 has been undertaken.
- 5.3.3 A total of 21 applications have been notified to the Scottish Government since the adoption of NPF4, where SEPA has objected on the grounds of flood risk. Of those 21 applications, 17 have been returned to the relevant local planning authority without call-in, i.e. allowing the applications to be approved at local level. Four were called in for Scottish Minister's determination on the basis that they raised significant issues of principle, and were refused.
- 5.3.4 In each of the 17 cases which were not called in, the Scottish Government (taking into account internal flood risk advice) concluded that the applications raised no issues which would merit further assessment by Scottish Ministers. Common to these cases was that the local planning authority had demonstrated it fully understood the issues of flood risk, and these could be addressed where practicable through design or mitigation, including the imposition of conditions. It was accepted that the proposals did not fully comply with Policy 22 (leading to the SEPA objection), but this was balanced against the wider planning assessment of the proposal.
- 5.3.5 These cases include a wide variety of proposals and different types of flood risk, but many relate to brownfield development. One application in particular has been identified as having similar circumstances to this application.
- 5.3.6 In September 2024, West Dunbartonshire Council approved an application for a Class 1A Retail Superstore on a site at Castle Street, in Dumbarton (WDC Planning Reference DC23/217/FUL). This is a vacant brownfield site, with previous consent for retail. SEPA objected in principle due to coastal / tidal flood risk, raising similar concerns about safe access/egress, and flooding resulting in an island of development.
- 5.3.7 The Council resolved to approve the planning application taking account of the following matters:
- Neighbouring sites had been developed so situation would be no different to previously approved adjacent developments.
  - While access to site would be limited during a flood event, the main Castle St would be closed due to flooding.
  - The flood risk is from coastal / tidal flooding which can generally be predicted, and the flood risk assessment indicated that the store will sign up to SEPA's flood warnings to ensure that safe evacuation can take place prior to flood levels reaching a point that the building cannot be evacuated to dry land. Those in the

building would be staff or shoppers, not permanent residents, reducing risk further.

- There was no change in vulnerability to consented development.
- It was accepted there is conflict with elements of Policy 22 in terms of remaining operational and creating an island of development, but a flood management and evacuation plan could ensure it is safely evacuated before any tidal flood event occurs.
- A suspensive condition requiring full details of flood mitigation and evacuation plan to be approved by LPA and thereafter adhered to.

5.3.8 Following notification to the Scottish Government, the application was returned to the Council for it to issue the decision. The assessment (See Appendix B) concluded:

- The applicant could sign up to SEPA's flood warnings to ensure safe evacuation could take place prior to evacuation routes being flooded.
- The Council had fully considered the level of flood risk and balanced this against wider policies for regenerating the brownfield site, with conditions to address safe access/egress.
- No issues were raised of national importance.

5.3.9 The application was approved subject to conditions. This includes conditions that requires all recommendations in the FRA to be incorporated into the development, and that *“Prior to the commencement of development on site, full details of a flood mitigation and evacuation plan for the development shall be submitted for the written approval of the Planning Authority. Thereafter, the flood mitigation and evacuation plan shall be adhered to at all times, unless otherwise agreed with the Planning Authority”*.

5.3.10 This current application for the restaurant and café (which is of a much lesser scale than the Class 1A supermarket proposed here) has very similar circumstances in terms of the flood sources, nature of flood risk, vulnerability level and issues being around potential safe access and egress. Similar to this case, a suspensive condition can be applied to mitigate any accessibility concerns by requiring approval of a flood mitigation and evacuation plan.

5.3.11 In terms of local cases, it is noted that there is a current application (24/00927/APP) to amend the design of the proposed Troon Water Sports Hub, which is located on the same area of green space at North Shore Road to the South. The previous permission (22/00417/APP) was approved in 2022 and is currently still extant. It also lies fully within an area of medium – high coastal flood risk as shown on SEPA's online mapping. The consultation response of SEPA to the current application, which will also be assessed against the provisions of NPF4, is not known at the date of writing. However it is noted that the facilities proposed also include for café and visitor services.

## 5.4 Flood Mitigation and Evacuation Plan

- 5.4.1 To address the concern about potential limitations on safe access and egress, similar to the example noted above, a condition requiring approval of a flood mitigation and evacuation plan could be attached to a permission, setting out measures for monitoring of potential significant flooding events and procedures for evacuation.
- 5.4.2 Floodline is a live notification system provided by SEPA across Scotland, providing flooding information and advice on preparing for flooding. Recipients of notifications sign up to receive alerts or warnings for their area of interest.
- 5.4.3 There are three types of Floodline Notifications:
- Flood Alerts, which are issued for regional areas between two hours and two days in advance of forecast flooding. The purpose of this advice on SEPA's website is to "be prepared to act on your flood plan", and to "prepare a flood kit of essential items".
  - Flood Warnings, which are only issued in local community areas where SEPA monitors river and coastal flooding. These are issued 3-6 hours in advance of forecast flooding and do recommend movement of people, pets and valuables to a safe place and flood protection measures to be put in place.
  - Severe Flood Warnings, which are used when flooding is expected to pose a 'significant risk to life'. In these circumstances people are advised to 'stay safe' and 'prepare to evacuate and co-operate with the emergency services'. In other words, they are not necessarily recommended to evacuate unless it is safe to do so.
- 5.4.4 The application site lies within the Ayrshire and Arran Flood Alert Area. It does also benefit from targeted Flood Warnings as part of the Ayr to Troon Flood Warning Area. Monitoring of Met Office weather warnings will also be undertaken to identify potential circumstances when the restaurant and café will be closed. These are all monitoring indicators which can support an informed decision on the likelihood of significant flooding and necessity for evacuation.
- 5.4.5 Appendix C provides a template which is published by an English local authority to guide on the form and content of a flood warning and evacuation plan. We are not aware of any specific Scottish guidance but suggest that similar principles, taking reference from the SEPA Floodline system as above could be incorporated into a plan for this site.

## 6.0 Conclusion

- 6.1.1 This application benefits from support when assessed against the development plan. It will result in the re-development of a previously developed site, is consistent with and will support local living, accessible by active travel and public transport, and this small scale development can integrate with the wider open space, coastal and recreational use of the area without detriment to its integrity and setting.
- 6.1.2 The site is not in public ownership, having formerly been sold by the Council for future re-development.
- 6.1.3 The previous planning permission in 2015, whether or not extant, is a material consideration. The only notable changes in character and circumstances are that the previous building has now been demolished, and introduction of NPF4 has brought enhanced scrutiny of flood risk, particularly within the context of the wider climate change crisis.
- 6.1.4 However, when the application is fully assessed against the provisions of NPF4 Policy 22, it can be noted that it does benefit from support under the terms of part (a)(iii) as it is a site which will be developed for no greater vulnerability of use than its predecessor use. It is also broadly compliant with part (a)(iv) in terms of the productive re-use of a brownfield site.
- 6.1.5 The issue in question, which is the foundation of the SEPA objection, is that based on future flood projections, the site may become an 'island of development' in a significant flood event. However it is explained in this statement that access to a flood-free area (based on SEPA mapping) will be in close proximity. It is considered that a reasonable and proportionate solution (given the balance of the assessment is otherwise supportive of development) is to manage this potential risk through approval of a flood management and evacuation plan which would be adhered to by operators of the restaurant and café. This approach has been confirmed in decisions elsewhere in the UK.
- 6.1.6 It is respectfully requested that the application is approved on this basis.

## Appendix A

### Applicant Photographs of Site (25th January 2025)



## **Appendix B**



<b>Case reference</b>	NA-160-003
<b>Application details</b>	Erection of a Class 1A Retail Food Store with Associated Access, Car Parking, Landscaping and Associated Works (DC23/217/FUL)
<b>Site address</b>	Land to Southeast of Castle Street, Dumbarton
<b>Applicant</b>	Aldi Stores Ltd
<b>Determining Authority</b>	West Dunbartonshire Council
<b>Local Authority Area</b>	
<b>Reason(s) for notification</b>	Town and Country Planning (Notification of Applications) (Scotland) Direction 2009 Category 2 (Objection by Government agency – (v) Flooding) (SEPA)
<b>Representations</b>	59 representations received by Council (54 in support, 5 objections) 1 statutory consultee objection (SEPA)
<b>Date notified to Ministers</b>	22 August 2024
<b>Date of recommendation</b>	17 September 2024
<b>Decision / recommendation</b>	Clear

### Description of Proposal and Site:

- Planning permission is sought for the erection of a Class 1A retail food store with associated access, car parking, landscaping and associated works at land to southeast of Castle Street, Dumbarton by Aldi Stores Ltd.
- The application relates to a part of the former Allied Distillers site on the south side of Castle Street, Dumbarton (see **Annex A** below for location and site plans). The brownfield site is located on Dumbarton waterfront, at the head of the old tidal basin in the River Leven and to the north of the River Clyde.
- A review of the SEPA Flood Maps suggest that whole site is at high risk of coastal / tidal flooding (see **Annex B** below for a coastal / tidal flood map). The surface flood map also suggest that the central area within the site is at risk from pluvial flooding, although it is suggested that this is due to an existing lack of drainage.

### EIA Development:

- The proposal fits the description of being an urban development project under 10(b) of the table in Schedule 2 of the EIA Regulations and is above the size threshold of 0.5ha. The Council's screening opinion concludes than EIA is not required, but that there are a variety of issues which may be expected to

ordinarily form part of an environmental assessment that will require to be considered and addressed during the application process.

## **Consultations and Representations:**

### Consultations

- The Scottish Environment Protection Agency (SEPA) object in principle to the proposal. They state that the proposed development is expected to put people or property at risk of flooding.
- PARD consulted the Scottish Government's Flood Risk Management Team on the application following notification. They recommend that the application is not called in.

### Representations

- 59 representations were received by the Council are summarised as follows:
  - 5 objections: overprovision of supermarkets in the area and oversaturation of this use in this part of Dumbarton; potential impact of the development on the High Street shops and the adjacent established supermarkets and the retail park; and accessibility.
  - 54 in support: General support and enthusiasm; appropriate location; bringing back into use; Aldi likely adding to the variety of the retail offering, and positive impact due to increased footfall; improving competition in the retail offering and providing affordable shopping opportunities, also in the context of the current economic landscape and the cost of living; new employment opportunities; existing transport infrastructure being capable of carrying additional traffic; proposed design; close proximity of the proposal to the supporter's place of residence; Aldi will spare residents having to travel to Vale of Leven branch.

## **Assessment:**

### Introduction

1. As the Council is minded to approve the proposal contrary to a statutory objection from SEPA due to flooding concerns, the application has been notified to Ministers to consider whether there are any issues of national importance that would warrant them calling it in for their own determination.

### SEPA's position

2. SEPA object in principle to the application and recommend that planning permission should be refused. This is because the proposed development is expected to put people or property at risk of flooding, which is contrary to the duties set out under the Flood Risk Management (Scotland) Act 2009, and the policy principles of NPF4. In terms of Policy 22, it is highlighted in their response to the planning authority that safe access and egress cannot be provided and that the proposal will become an island of development in the event of flooding.

3. SEPA advise that they are satisfied with the methodology used by the applicant in preparing the Flood Risk Assessment (FRA). They accept that the majority of the site is not at risk of fluvial (river) flooding and that the flood risk is coastal / tidal. They have no concerns regarding loss of floodplain capacity.

#### The Applicant's position

4. The applicant's FRA states that safe access and egress cannot be achieved in the event of flooding and an evacuation plan is proposed. Given the development is retail in nature, inundation of the building will be permitted and flood resilience measures incorporated into the design. The FRA proposes the adoption of a flood warning plan, with entrance barriers in place at access points.

#### 5. The Council's position

6. The Council's planning officer recommended to the planning committee that they grant planning permission subject to conditions.
7. They note that the flood risk is from coastal / tidal flooding which can generally be predicted and that the FRA indicates that the Aldi store will sign up to SEPA's flood warnings to ensure that safe evacuation can take place prior to flood levels reaching a point that the building cannot be evacuated to dry land. Furthermore, unlike nearby residential properties, those within the proposed development would either be staff or shoppers and not permanent residents, reducing risk further.
8. The Council's planning officer welcomed the proposal, as it would provide an effective use of a brownfield site whose development has stalled since the approval of a previous application. They note that while the flooding aspect would potentially result in parts of the site becoming inaccessible in a 1:200 year plus climate change coastal /tidal flooding event, the development itself would likely remain unaffected. With suitable mitigation (proposed in the FRA) in place to ensure the building is evacuated prior to any flooding event, the benefit of redevelopment of a brownfield site along with the economic benefit outweigh the flooding concerns.
9. They concluded that despite the conflict with elements of Policy 22 of NPF4, the proposal is, in the whole, supported by NPF4, together with the adopted Local Plan, the proposed Local Development Plan 2 and associated Planning Guidance.
10. The Council's planning committee agreed to grant planning permission subject to the conditions set out by the planning officer.

#### Advice from the Scottish Government's Flood Risk Management Team

11. The Scottish Government's Flood Risk Management Team was consulted upon notification of the planning application to Ministers. They note that in this instance there is no overnight accommodation proposed as part of this development and the proposals are solely for commercial development. They note that the FRA concludes that safe access and egress will not be possible in the event of flooding.

They note that the Council's planning officer has highlighted that flood risk at this location is from coastal / tidal sources, and that this can generally be predicted.

12. They note that the FRA indicates that the Aldi store will sign up to SEPA's flood warnings to ensure that safe evacuation can take place prior to flood levels reaching a point that the building cannot be evacuated to dry land. The Council have therefore included a condition requiring a flood management and evacuation plan, to ensure the building is safely evacuated before any tidal flood event occurs. Therefore, they recommend that the application is not called in by Ministers.

#### PARD Conclusion

13. PARD notes that NPF4 requires a precautionary approach to development on land at risk of flooding. The Council has fully considered the level of flood risk and balanced this against wider policies for regenerating the brownfield site. Conditions have been imposed to aim to address safe access / egress issues in a flood event.
14. In view of the above assessment, PARD considers that the proposed development does not raise issues of national importance that would require intervention by Ministers.

#### **Decision/Recommendation:**

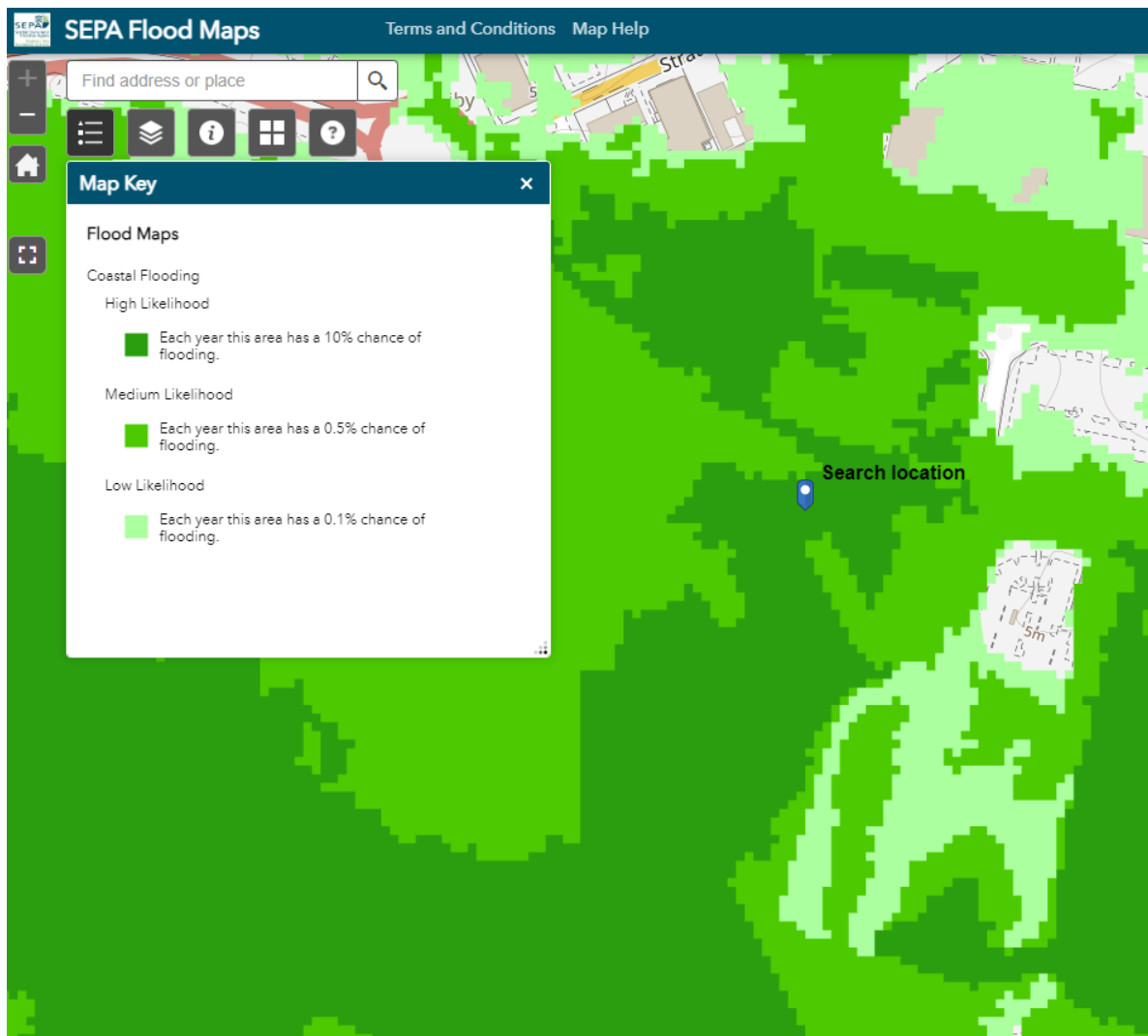
- The application should be cleared back to West Dunbartonshire Council to determine.





# Annex B – SEPA Flood Maps

## Coastal / Tidal Flooding



## **Appendix C**

[Company name]

# Flood Warning & Evacuation Plan

Managed Facilities



## How to Use This Template

This template is designed for use by developers of larger (> 10) private residential housing. It adopts a practicable approach to meeting the requirements of the National Planning Policy Framework and PPS 25.

Each section of this template contains guidance [shown in red] which should be deleted prior to submission to North Somerset Council, Local Planning Authority for consideration.

## Document Control

This plan is owned, maintained and updated by [insert company details] and [responsible officer]. All stakeholders are to inform the above of any changes in circumstances that may materially affect plan content.

The plan will be reviewed:

- On first occupation;
- Every 3 years thereafter;
- As a result of lessons learnt;
- Following change of ownership or modification of the premises; or
- Following change to the Flood Warning process.

Plan Produced by: \_\_\_\_\_ Approved by: \_\_\_\_\_

## Version Control

Version No:	Comment	Checked by:	Approved by:	Date:

## Disclaimer

North Somerset Council, as far as it can ascertain, acknowledges that this Flood Warning & Evacuation Plan (FWEP) template is suitable for the purposes set out within the national Planning Policy Framework. This plan is however the sole responsibility of the signatories and/or their representatives.

North Somerset Council cannot accept responsibility for any omission or error contained in any such plan, or for loss, damage, or inconvenience, which may result from the plans' implementation. Any subsequent approval does not does not impute any approval of the plans from the Environment Agency or any of the emergency services.

## Contents

Document Control.....	i
Version Control .....	i
Disclaimer.....	i
Introduction .....	1
Objectives .....	1
Flood Risk.....	1
Annex A - Flood Risk Exposure.....	2
Appendix 1 to Annex A – Flood Risk Map .....	3
Evacuation.....	4
Warning & informing .....	4
Familiarisation .....	4
Recovery.....	4
Annex B – Flood Warning Activation Procedures .....	5
Additional Guidance.....	6

## Introduction

[This plan template has been developed by North Somerset Council to support those owner organisations/persons responsible for the management of sites providing certain accommodations]:

- Student accommodation;
- Sheltered housing / residential and nursing homes;
- Caravan / camping and traveller sites; and
- Hotels / hostels / other accommodations of a temporary or transient nature.

This Flood Warning & Evacuation Plan (FWEP) has been produced by [name of organisation] in respect of the premises at [full address] from which we operate a [nature of business]. [Name of organisation] own the FWEP, are responsible for its implementation, dissemination and annual review.

The FWEP captures a summary of the site's flood risk and provides all relevant information, contact details and procedures to prepare for, respond to and recover from a flood event.

[Name of organisation] have given due regard to the safety of residents and staff, available best practice, relevant legislation and advice provided by the emergency services and the Emergency Management Unit of North Somerset Council.

## Objectives

In the production of this FWEP [name of organisation] have identified the following key objectives:

- To establish robust procedures to evacuate or move residents to a place of safety;
- To establish clear procedures for the implementation of this plan;
- To ensure a safe and controlled evacuation where this is deemed the most appropriate action;
- To establish an evacuation route;
- Reduce the risk of life and prevent loss to the premises and business; and
- To inform residents of the content of this plan.

All staff are to be familiar with these arrangements and testing will be conducted on an annual basis by the organisations responsible officer.

## Flood Risk

[North Somerset Council will expect this section to contain the following information]:

- Historical Flood data;
- A Flood Risk map (no smaller than A4) at a scale to provide sufficient detail and clarity;
  - Site plan / footprint of premises;
  - Ingress / egress;
  - Evacuation route and;
  - External place of refuge.
- Source(s) of flood risk;
- Warning systems in place;
- Estimated Flood Depth; and frequency / probability; and
- Soft measures to mitigate flood risk.

All of this information can be captured using the template at Annex A.

Annex A - Flood Risk Exposure

<b>Historical Flood Data: (Attach Flood Risk Map as Appendix 1 to Annex A).</b>			
<b>Flood Risk Source:</b>	<b>Warning Systems in Place (Flood Warning Direct etc.)</b>	<b>Estimated Flood Depth</b>	<b>Frequency / Probability</b>
<b>Fluvial</b>			
<b>Tidal</b>			
<b>Ground Water</b>			
<b>Surface Water</b>			
<b>Other:</b>			

Appendix 1 to Annex A – Flood Risk Map

## Evacuation

The decision to evacuate, or take shelter within our premises, will be made by [Role/Function, telephone number] having due regard to the advice/warnings and instructions of the emergency services.

The decision to evacuate must be made to allow sufficient time to conduct the evacuation before flooding occurs. Flood waters contain hidden dangers and will impede if not prevent a safe evacuation.

Your consideration should include:

- Identification of a venue suitable for the number and vulnerability of your residents;
- Access to said venue;
- Availability of transport to effect the evacuation;
- Staff to control the evacuation and manage the place of refuge; and
- Resources to support the needs of residents for up to 7days.

You should not assume that the emergency services will be able to assist you with the evacuation; their focus will be directed to those in greatest need.

Where evacuation is not a feasible option you must demonstrate the means of securing their safety and continuing to provide all necessary support within your premises.

In extremis, where your identified solutions are not available, support may be offered by North Somerset Council.

## Warning & informing

[North Somerset Council will expect your organisation to sign up to Flood Warnings Direct (FWD) from the Environment Agency and to Weather Alerts from the Meteorological Office].

Utilise Annex B to record your prescribed actions in relation to the flood alert levels.

Copies of this FWEP should be accessible to residents and visitors.

## Familiarisation

The successful implementation of this plan is dependent on all relevant staff and residents being familiar with its content and to have rehearsed, where possible, the procedures contained within the FWEP.


This plan will be practised / rehearsed every [insert timeframe].

## Recovery

[Please record your post flood recovery plans; taking into account]:

- Possible loss of building;
- Loss of utilities;
- Loss of / damage to equipment;
- Contamination and cleaning.

Annex B – Flood Warning Activation Procedures

Warnings			[Your Organisation Name]		
			EA Recommended Actions	Actions [Detail the actions you will take at each stage of the activation]	Communications [How will you communicate activation of the FWEP, internally and to external organisations]
 <b>FLOOD ALERT</b>	<p><b>What it means:</b> Flooding is possible. Be prepared.</p> <p><b>When it's used:</b> Two hours to two days in advance of flooding.</p>	<p>Be prepared to act on your FWEP. Prepare a flood kit of essential items.</p> <p>Monitor <a href="#">local water levels</a> and the flood forecast on our website.</p>			
 <b>FLOOD WARNING</b>	<p><b>What it means:</b> Flooding is expected. Immediate action required.</p> <p><b>When it's used:</b> ½ an hour to one day in advance of flooding.</p>	<p>Move family, pets and valuables to a safe place.</p> <p>Turn off gas, electricity and water supplies if safe to do so.</p> <p>Put <a href="#">flood protection equipment</a> in place.</p>			
 <b>SEVERE FLOOD WARNING</b>	<p><b>What it means:</b> Severe flooding. Danger to life.</p> <p><b>When it's used:</b> When flooding poses a significant threat to life..</p>	<p>Stay in a safe place with a means of escape.</p> <p>Be ready should you need to evacuate from your home.</p> <p>Co-operate with the emergency services. Call 999 if you are in immediate danger.</p>			
EA Flood Warnings No longer in force	<p><b>What it means:</b> No further flooding is currently expected in your area.</p> <p><b>When it's used:</b> When river or sea conditions begin to return to normal.</p>	<p>Be careful. Flood water may still be around for several days.</p> <p>If you've been flooded, ring your insurance company as soon as possible.</p>			
Meteorological Office Weather Warnings	<p>Warnings of heavy rainfall.</p> <p>Warnings of severe winter weather e.g. hail, snow, freezing rain.</p>	<p>Consider the impact of this type of weather – e.g. this could lead to surface water flooding, ground water flooding, increased river and sea levels.</p>			

**SIGN UP TO FLOOD WARNINGS DIRECT**

## Additional Guidance

<b>Gov.UK:</b>	<a href="#"><u>Prepare for a Flood</u></a>
<b>Gov.UK:</b>	<a href="#"><u>Preparing for Emergencies</u></a>
<b>Environment Agency:</b>	<a href="#"><u>Flood Warnings Direct</u></a>
<b>Meteorological Office:</b>	<a href="#"><u>Weather Warnings</u></a>
<b>North Somerset Council:</b>	<a href="#"><u>Local Planning Authority</u></a>
	<a href="#"><u>Emergency Management Unit</u></a>