

# Statement on SEPA approach to National Planning Framework 4 Policy 22 exceptions

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## Purpose

The matter of whose role it is to advise on whether one of the four Policy 22 exceptions in [National Planning Framework 4 \(NPF4\)](#) applies to a development has been the source of discussion between SEPA and planning authorities since NPF4 came into effect in February 2023.

NPF4 sets out four exceptions where development in an area of flood risk may be permissible:

### Policy 22

a) Development proposals at risk of flooding or in a flood risk area will only be supported if they are for:

i. essential infrastructure where the location is required for operational reasons;

ii. water compatible uses;

iii. redevelopment of an existing building or site for an equal or less vulnerable use; or.

iv. redevelopment of previously used sites in built up areas where the LDP has identified a need to bring these into positive use and where proposals demonstrate that long term safety and resilience can be secured in accordance with relevant SEPA advice.

The purpose of this statement is to clarify SEPA's role in advising on the exceptions for all stakeholders in the land use planning process. Since the adoption of NPF4 it has become evident that a single view from the planning authority as decision-maker would be helpful to all stakeholders. This statement has been developed in collaboration with Scottish Government and planning authorities.

## SEPA's role

Planning authorities are the consulting body and decision-maker for planning consultations where SEPA is asked for flood risk advice. SEPA has a clearly defined role as a statutory consultee providing input to the planning process in the form of technical flood risk advice.

NPF4 forms part of the planning authority's development plan and the interpretation and application of many (though not all) aspects of the exceptions are matters of planning judgement, which in some cases require knowledge of the site or its wider locality, as well as knowledge of the planning authority's own local development plan. Terms such as 'Essential Infrastructure' and 'Water Compatible Uses' are also defined in the glossary of NPF4, which SEPA has reflected in our Land Use Vulnerability Guidance.

It is therefore appropriate for the planning authority to advise upon which, if any, of the four exceptions is considered applicable to a development. Doing this at the point at which SEPA is consulted for flood risk advice is the best and most time-efficient approach, as it clearly informs us what type of flood risk advice is required: advice on how the development should avoid flood risk entirely, advice on managing risk for a development that is appropriate in a flood risk area, or whether it is advice delivered through our standing advice. For exceptions (iii) and (iv), there are elements that are dependent upon SEPA advice and supported by our guidance as explained in Table 1 below, but advice is first required from the planning authority on whether for example a proposed development can be considered a redevelopment.

More detail on how this will work in practice is set out in Table 1 overleaf.

## Practical implications for consultation with SEPA

At the time of consultation with SEPA, planning authorities should confirm in writing which exception, if any at all, they consider is applicable to the development. SEPA is happy to engage in dialogue with planning authorities where they consider unique cases may warrant a different approach. It would also be helpful to have a brief summary of the considerations for the planning authority in arriving at a judgement on which exception is applicable, where possible. Wherever we possess information that can support planning authorities in arriving at a judgement, we will share it.

The following circumstances are likely (note that small scale extensions and alterations to existing buildings are covered by part b of policy 22, which are covered by SEPA's standing advice):

**Table 1**

Planning authority advises:	SEPA approach:
<p>Exception (i) or (ii) is applicable</p> <p>If potential floodplain loss is involved, this should be clearly indicated in the consultation email.</p> <p>If there is no floodplain loss involved, then the planning authority should not consult SEPA but instead refer to <a href="#">SEPA's standing advice</a>,</p>	<p>If floodplain loss is involved, we will provide a response in the usual way, up to and including objection if deemed appropriate, structured around how we consider the development fits with the applicable bullet points.</p>

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Planning authority advises:	SEPA approach:
<p>Exception (iii) is applicable because the development constitutes the redevelopment of an existing building or site and the planning authority:</p> <p>A. is unsure whether the development is for an equal or more vulnerable use OR B. considers the development is for a more vulnerable use (i.e. exception (iii) does not apply)</p> <p>The consultation email should clearly indicate if advice is sought on A or B.</p> <p>Planning authorities can use SEPA's Land Use Vulnerability Guidance to inform their view.</p> <p>Note that where a planning authority is certain a development meets with all parts of exception (iii) then the planning authority should not consult SEPA but instead refer to <u>SEPA's standing advice</u>.</p>	<p>If SEPA considers the development to be for an equal or less vulnerable use then we will direct planning authorities to our standing advice, explaining our view with reference to our Land Use Vulnerability Guidance if relevant.</p> <p>If SEPA agrees the development is for a more vulnerable use (with reference to our Land Use Vulnerability Guidance) we will provide a response in the usual way, up to and including objection if deemed appropriate.</p>
<p>Exception (iv) is applicable because the development constitutes a redevelopment of a previously used site in a built up area where</p>	<p>SEPA will consider the development proposal relative to our guidance on elevated buildings and/or landraising, and the bullet points that sit under the exceptions in Policy 22 as</p>

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the LDP has identified a need to bring these into positive use.	applicable. We will provide a response in the usual way, up to and including objection if deemed appropriate, structured around how we consider the development fits with the applicable bullet points.
No exceptions are applicable, and the proposal is not covered by SEPA's standing advice.	<p>If the site is at risk of flooding, we will provide a site-specific response in the usual way, up to and including objection. If the risk/vulnerability is considered to be low or not significantly different to the pre-development situation we will provide a response explaining we have no issues to raise and make reference to the guidance in our standing advice if relevant.</p> <p>We will not advise on whether we think any exceptions could be applicable.</p>
It is unclear whether the site is at risk of flooding or in a flood risk area and the planning authority seeks SEPA advice on this matter before advising which exception is applicable, for example, at pre app stage where the specific uses or site layout are yet to be defined.	<p>SEPA will provide any information we hold on flood risk to the site. We will not advise on whether we think any exceptions could be applicable or provide a view on the proposal.</p> <p>If the site is at risk, SEPA should be reconsulted once the proposal details are known, including the exception status.</p>

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