



# Environmental Protection

## Introduction

It is important for the Local Development Plan to recognise and provide a responsive policy framework related to those areas of activity that could have an adverse impact on the environment. This includes dealing with waste, water supplies and drainage, river engineering and flooding, pollution, air quality and contamination.

## Context

Scottish Planning Policy (SPP) requires new development to take into account the implications of development for water, air and soil quality as well as supporting water resource management, sustainable waste management and encouraging the use of sustainable and recycled materials in construction.

**Flooding** – The Flood Risk Management (Scotland) Act 2009 sets in place a statutory framework for delivering a sustainable and risk based approach to managing flooding. To provide a basis for planning decision making relating to flood risk, the flood risk framework divides flood risk into three categories, little or no risk, low to medium risk, medium to high risk and outlines the appropriate response. Within the plan sites at risk of flooding have been identified and requirements for flood risk assessments and drainage assessments have been set out in the designation text.

**Waste** – The Government's Zero Waste Plan has set the following targets for municipal waste:

- Increasing the proportion recycled or composted to 40% by 2010, 50% by 2020 and 70% by 2025,
- A 5% limit on landfill of municipal waste by 2025,
- To stop the growth of municipal waste by 2010.

Achieving these targets will require a reduction in the amount of waste produced and a significant increase in waste management infrastructure. The proximity principle requires waste to be dealt with as close as possible to where it is produced. Annex B of the Zero Waste Plan provides further information on the role of land use planning.

**Water and Drainage** – The Water Environment (Controlled Activities) (Scotland) Regulations 2005 require all surface water from new development to be treated by a sustainable drainage system (SUDS). New development should ensure the enhancement of the water environment in accordance with the Water Framework Directive (WFD) and the North East River Basin Plan.

## Policy EP1 Waste Management and Disposal Facilities

Proposals for development of new facilities for the management or disposal of waste will be supported if the following criteria are met:

- 1) Any location must have acceptable, safe access arrangements and be close to an existing primary road, railhead or suitable harbour facilities and be capable of satisfactorily accommodating the potential transport impacts within the surrounding roads network; and
- 2) Proposals should be strategically located within the existing waste collection network and be close to the principal sources of waste arising to accord with self-sufficiency and proximity principles.
- 3) The proposal helps to deliver the objectives of the Zero Waste Plan (ZWP).
- 4) The proposal should be located where it will not have a significant adverse impact on international, national, regional or locally significant designated areas;
- 5) Any proposal should be suitably located, preferably within an existing or proposed industrial area; a brownfield site, derelict or degraded land (unless adverse ground conditions pose an unacceptable risk) or existing waste management site;
- 6) Greenfield sites should only be considered for development if it can be demonstrated by the applicant that there are no other suitable locations. Any greenfield site also needs to take into account the impact on the surrounding landscape;
- 7) Proposals should not generate adverse impacts on ground water resources and surface waters and should not be located within an area subject to flooding (1:200 year event);
- 8) Energy from waste recovery facilities should be located adjacent to National Grid infrastructure and close to users of heat and power;
- 9) Where proposals can offer additional benefits for the locality or community then these factors should be taken into account in the finalisation of the location.
- 10) The development has no adverse impact on residential and environmental amenity and where appropriate satisfactory details of restoration are provided.

### Justification

The Scottish Government has adopted Zero Waste as a goal. Moving to zero waste means more facilities will be required to collect, sort, reuse, recycle and process waste. The policy aims to support the delivery of a variety of waste installations that will be required and ensure that these are directed to appropriate locations. This approach will also support the Council to contribute to waste reduction targets.

## Policy EP2 Recycling Facilities

Proposals for new development must ensure the provision of adequate space within layouts for well designed waste storage, recycling and collection systems to maximise waste reduction and the separation of materials at source. The scheme should be designed in consultation with the Council's Waste Manager.

For major applications a site waste management plan may be required to ensure that waste minimisation is achieved during the construction phase.

### Justification

The Scottish Government has adopted Zero Waste as a goal. Recycling is a key element in the waste hierarchy as it promotes the sustainable use of materials and reduces the amount of waste that has to be dealt with by landfill. The policy aims to ensure that all residential, commercial and industrial properties provide facilities for waste separation and collection.

## Policy EP3 Identifying and Safeguarding Key Waste Sites

Key waste sites are identified at Dallachy, Gollachy, Moycroft and Waterford. Development on adjoining land will not be approved if it is considered there will be an unacceptable conflict that could prejudice their continued operation.

### Justification

The aim of this policy is to safeguard waste sites are ensure these are protected from any conflicting development. These are shown on Proposals Map: Waste and Minerals.

## Policy EP4 Private Water Supplies

All proposals to use a private water supply must demonstrate that a wholesome and adequate supply can be provided. Applicants will be required to provide a National Grid Reference for each supply source and mark the supply (and all works associated) e.g. the source, holding tank and supply pipe, accurately on the application plan. The applicant will also be required to provide information on the source type (e.g. well, borehole, spring). This information is necessary to enable the appropriate authorities to advise on the environmental impact, adequacy, wholesomeness, capacity of supply for existing and proposed users and pollution risks.

### Justification

The aim of the policy is to ensure safe water supplies where a private source is to be used.

**Policy EP5****Surface Water Drainage: Sustainable Urban Drainage Systems (SUDS)**

Surface water from development should be dealt with in a sustainable manner that has a neutral effect on the risk of flooding or which reduces the risk of flooding. The method of dealing with surface water should also avoid pollution and promote habitat enhancement and amenity. All sites should be drained by a sustainable drainage system (SUDS). Drainage systems should contribute to enhancing existing “blue” and “green” networks while contributing to place-making, biodiversity, recreational, flood risk and climate change objectives.

Specific arrangements should be made to avoid the issue of permanent SUD features becoming silted-up with construction phase runoff. Care must be taken to avoid the introduction of invasive non-native species during the construction of all SUD features.

Applicants must agree provisions for long term maintenance of the SUDS scheme to the satisfaction of the Council in consultation with SEPA and Scottish Water as appropriate.

A Drainage Assessment (DA) will be required for developments of 10 houses or more, industrial uses, and non-residential proposals of 500 sq metres and above.

The Council's Flood Team will prepare Supplementary Guidance on surface water drainage and flooding.

**Justification**

Under the Water Environment Controlled Activity (Scotland) Regulations 2011, SUDS are a statutory requirement for almost all development and therefore this needs to be considered during the site design to ensure adequate space will be available. Well designed and maintained, SUDS can reduce diffuse pollution from surface water run-off, free up capacity in water management infrastructure, contribute to green/blue networking thereby supporting River Basin planning. Blue networks are identified to ensure that new development is set back from and planned around watercourses to create networks and corridors to facilitate natural hydrological process, enhance biodiversity and help create a “unique sense of place” on-site. Systems should be designed to comply with the Controlled Activity Regulations (CAR) general binding rules (GBR's). SUDS also have a role in reducing flood risk and mitigating against the effects of climate change.



## Policy EP6 Waterbodies

Proposals must be designed to avoid adverse impacts upon water environment and should seek opportunities for restoration. The Council will only approve proposals impacting on water features where the applicant provides a satisfactory report that demonstrates that any impact (including cumulative) on water quality, water quantity, physical form (morphology), river hydrology, sediment transport and erosion, nature conservation, fisheries, recreational, landscape, amenity, and economic and social impact can be adequately mitigated.

The report should consider existing and potential impacts up and downstream of the development particularly in respect of potential flooding. The Council operates a presumption against the culverting of watercourses and any unnecessary engineering works in the water environment.

A buffer strip of at least 6m between any new development and all water features is required. These should be designed to link with blue and green networks and can contribute to open space requirements. Developers may be required to make improvements to the water environment as part of the development.

### Justification

The aim of this policy is to support the protection and enhancement of the water environment in accordance with the Water Framework Directive (WFD) and the North East River Basin Plan. The water environment includes wetlands, rivers, lochs, transitional waters (estuaries), coastal waters (out to 3 nautical miles) and groundwater.

There are a number of works to watercourses and land drainage which fall outwith the General Permitted Development Order including fisheries management, erosion control or flood prevention which can have a significant impact on the management or ecology of watercourses.

These works are controlled under the WFD through the Water Environment (Controlled Activities) (Scotland) Regulations 2011 (CAR) and require a holistic approach to be taken in protecting and improving the water environment.

Water features include waterbodies, ponds and existing sustainable drainage systems (SUDS) both natural and man-made.

## Policy EP7 Control Of Development in Flood Risk Areas

New development should not take place if it would be at significant risk of flooding from any source or would materially increase the possibility of flooding elsewhere. Proposals for development in areas considered to be at risk from flooding will only be permitted where a flood risk assessment to comply with the recommendations of National Guidance and to the satisfaction of both the Scottish Environment Protection Agency and the Council is provided by the applicant. This assessment must demonstrate that any risk from flooding can be satisfactorily mitigated without increasing flood risk elsewhere. Due to continuing changes in climatic patterns, the precautionary principle will apply when reviewing any application for an area at risk from inundation by floodwater.

### Justification

The aim of the policy is to primarily direct development away from areas at risk from flooding in the first instance, and ensure that potential risk from flooding is adequately considered in terms of planning applications. Where impacts are identified they should be satisfactorily mitigated without passing on the problem elsewhere. The Flood Risk Framework in Scottish Planning Policy requires sustainable flood management approaches to be taken forward which will improve bed banks and shores. Such an approach will also contribute to the “protect” and “enhance” objectives of the Water Framework Directive.

The following limitations on development will also be applied to take account of the degree of flooding as defined in Scottish Planning Policy;

- a) In areas of little to no risk (less than 0.1%) there will be no general constraint to development.
- b) Areas of low to medium risk (0.1% to 0.5%) will be considered suitable for most development. A flood risk assessment may be required at the upper end of the probability range (i.e. close to 0.5%), and for essential civil infrastructure and most vulnerable uses. Water resistant materials and construction may be required. Areas within this risk category will generally not be suitable for civil infrastructure. Where civil infrastructure must be located in these areas or is being substantially extended, it should be designed to be capable of remaining operational and accessible during extreme flooding events.
- c) Areas of medium to high risk (0.5% or above) may be suitable for:
  - Residential, institutional, commercial and industrial development within built up areas provided flood protection measures to the appropriate standard already exist and are maintained, are under construction, or are a planned measure in a current flood management plan;
  - Essential infrastructure within built up areas, designed and constructed to remain operational during floods and not impede water flow;
  - Some recreational, sport, amenity and nature conservation uses, provided appropriate evacuation procedures are in place and
  - Job related accommodation e.g. for caretakers or operational staff.

Areas within these risk categories will generally not be suitable:

- Civil infrastructure and most vulnerable uses;
- Additional development in undeveloped and sparsely developed areas, unless a location is essential for operational reasons, e.g. for navigation and water based recreation, agriculture, transport or utilities infrastructure (which should be designed to be operational during floods and not impede water flow), and
- an alternative, lower risk location is not available and
- New caravan and camping sites.

Where development is permitted, measures to protect against or manage flood risk will be required and any loss of flood storage capacity mitigated to achieve a neutral or better outcome. Water resistant materials and construction should be used where appropriate. Elevated buildings on structures such as stilts are unlikely to be acceptable.

This policy specifies limitations on the type of development within potential flood risk areas and seeks to ensure that essential civic infrastructure is not placed at undue risk on the grounds of public safety. Civil infrastructure in the context of flood risk includes hospitals, fire stations, emergency depots, schools, care homes, ground-based electrical and telecommunications equipment.

Essential infrastructure in a flood risk area for operational reasons is defined as essential transport infrastructure and essential utility infrastructure which may have to be located in a flood risk area for operational reasons. This includes electricity generating stations, power stations and grid and primary sub stations, water treatment works and sewage treatment works and wind turbines.

Most vulnerable uses in the context of flood risk and drainage includes basement dwellings, isolated dwellings in sparsely populated areas, dwelling houses behind informal embankments, residential institutions such as residential care homes/prisons, nurseries, children's homes and educational establishments, caravans, mobile homes and park homes intended for permanent residential use, sites used for holiday or short-let caravans and camping, installations requiring hazardous substance consent.

The source of information used to determine flood risk areas are the Scottish Environment Protection Agency indicative flood maps which are accessible on the SEPA website.

## Policy EP 8 Pollution

Planning applications for developments that may cause significant pollution in terms of noise (including RAF aircraft noise), air, water and light emissions will only be approved where a detailed assessment report on the levels, character and transmission of the potential pollution is provided by the applicant. The assessment should also demonstrate how the pollution can be appropriately mitigated. Where the Council applies conditions to the consent to deal with pollution matters these may include subsequent independent monitoring of pollution levels.

### Justification

The aim of this policy is to ensure that new developments do not create pollution, which could adversely affect the environment or local amenity. Pollution can take various forms including run off into watercourses, noise pollution, air pollution and light pollution. Furthermore, the policy seeks to regulate the effects of development in terms of pollution and allows the Council to monitor and control development proposals.

The decision as to whether a proposed development is likely to create “significant” pollution and require a detailed assessment report will be made in consultation with the Council’s Environmental Health Section, the Scottish Environment Protection Agency (SEPA) and Scottish Natural Heritage (SNH) and any other relevant regulatory body.

## Policy EP 9 Contaminated Land

Development proposals on potentially contaminated land will be approved provided that:

- a) The applicant can demonstrate through site investigations and risk assessment, that the site is in a condition suitable for the proposed development and is not causing significant pollution of the environment; and
- b) Where necessary, effective remediation measures are agreed to ensure the site is made suitable for the new use and to ensure appropriate disposal and/or treatment of any hazardous material.

The Council recommends early contact with the Environmental Health Section, which can advise what level of information will need to be supplied.

### Justification

This policy aims to encourage proposals for appropriate development on previously used land, while also ensuring that public health and environmental quality are not compromised. Where significant contamination is found to be present, the Council will seek to ensure that appropriate mitigation or remediation measures are implemented prior to, or as part of, the development but the level of remediation can be limited to that required for the purpose of the specific intended use.

## Policy EP10 Foul Drainage

All development within or close to settlements (as defined in the Local Development Plan) of more than 2,000 population equivalent will require to connect to the public sewerage system unless connection to the public sewer is not permitted due to lack of capacity. In such circumstances, temporary provision of private sewerage systems may be allowed provided Scottish Water has confirmed investment to address this constraint has been specifically allocated within its current Quality Standards Investment Programme and the following requirements apply:

- Systems shall not have an adverse impact on the water environment;
- Systems must be designed and built to a standard which will allow adoption by Scottish Water.
- Systems must be designed such that they can be easily connected to a public sewer in the future. Typically this will mean providing a drainage line up to a likely point of connection.

All development within or close to settlements (as identified in the Local Development Plan) of less than 2000 population equivalent will require to connect to public sewerage system except where a compelling case is made otherwise. Factors to be considered in such a case will include size of the proposed development, whether the development would jeopardise delivery of public sewerage infrastructure and existing drainage problems within the area. Where a compelling case is made, a private system may be acceptable provided it does not pose or add risk of detrimental effect, including cumulative, to the natural and built environment, surrounding uses or amenity of the general area. Consultation with Scottish Environment Protection Agency will be undertaken in these cases.

Where a private system is deemed to be acceptable (within settlements as above or small scale development in the countryside) a discharge to land (either full soakaway or raised mound soakaway) compatible with Technical Handbooks (which sets out guidance on how proposals may meet the Building (Scotland) Regulations 2004) should be explored prior to considering a discharge to surface waters.

### Justification

This policy aims to achieve the satisfactory disposal of sewage. The policy encourages new development to connect to the mains system whenever possible but recognises that in some cases this will not prove possible. The policy seeks to ensure that drainage systems can be designed to a standard that can be adopted by Scottish Water and which could be connected to a public system in the future.



## Policy EP11 Hazardous Sites

The Council will have regard to the presence of major hazard sites, and apply the PADHI (Planning Advice for Development near Hazardous Installations) methodology for planning applications within the consultation distances around these sites. Formal consultations with the Health and Safety Executive and also the Scottish Environment Protection Agency (SEPA) will take place as appropriate.

### Justification

Development proposals in proximity to hazardous installations (i.e. pipelines, gas storage compounds and distilleries) may be subject to an element of risk, and consultation with the Health and Safety Executive will confirm this.

## Policy EP 12 Air Quality

Development proposals, which, individually or cumulatively, may adversely affect the air quality in an area to a level which could cause harm to human health and wellbeing or the natural environment must be accompanied by appropriate provisions (deemed satisfactory to the Council and Scottish Environment Protection Agency as appropriate) which demonstrate how such impacts will be mitigated.

Some existing land uses may have a localised detrimental effect on air quality, any proposals to locate development in the vicinity of uses and therefore introduce receptors to these areas (e.g. housing adjacent to busy roads) must consider whether this would result in conflict with the existing land use. Proposals which would result in an unacceptable conflict with existing land use and air quality will not be approved

### Justification

The aim of this policy is to protect air quality and seek to direct sensitive development away from areas of poor air quality and thereby protect human health and the natural environment.

## Policy EP13: Ministry Of Defence Safeguarding Areas

Certain categories of development within particular distances from MoD airfields at Lossiemouth and Kinloss require to be subject of consultation with Defence Infrastructure Organisation. This applies to a wide range of development proposals which could have implications for the operation of the airfields and includes aspects such as height of buildings; use of reflective surfaces; refuse tips; nature reserves (and other proposals which might attract birds);

Full details of the consultation zones and development types are held by Moray Council. The outer boundaries of the zones are shown on the Proposals Map.

### Justification

The MoD would wish to ensure that developments in the vicinity of their airfields do not impact upon the safe operation of these facilities, and would wish to comment on all proposals which might fall into this category. In some locations ALL developments will require to be subject to this process.