

# ENVIRONMENTAL PROTECTION

## Chapter 5

### POLLUTION CONTROL

The South Somerset Local Plan (SSLP) was adopted on 27 April 2006 and “saved” until 26 April 2009 pending the preparation of replacement Local Development Framework (LDF) documents.

The Government Office for the South West have agreed to extend most Policies and Proposals beyond the 3 year saved period”.

**Policies** that have not been extended are struck through in the text. For ease of reference these are:

Chapter 6: Utilities	Policy EU1	Renewable Energy
	Policy EU2	Wind Turbines
	Policy EU5	Flooding
Chapter 10: Housing	Policy HG5	Replacement Dwellings in the Countryside
	Policy HG13	Sites for Travelling Show People
	Policy HG14	Sites for Travelling Show People

A number of **Proposals** have also not been extended as they have already been implemented or have Planning Permission and are under construction. These are:

Chapter 12: Area East	Proposal ME/CACA/3(ii)	Torbay Road, Castle Cary
Chapter 13: Area North	Proposal HG/SOME/4	The Mill House, Sutton Road, Somerton
	Proposal HG/SOPE/2	Land at Lightgate Lane, South Petherton
	Proposal TP/SOME/5	Widening of Cartway Lane, Somerton
	Proposal TP/SOME/6	Pedestrian Priority in West Street, Somerton
Chapter 14: Area South	Proposal CR/FIVE/1	Land at existing playing field, Fivehead
	Proposal HG/YEOV/2	Former Factory site, west of Larkhill Road, Yeovil
	Proposal HG/YEOV/3	Former Jewsons Yard, Newton Road, Yeovil
	Proposal ME/YEOV/6	Land east of Buckland Road, Pen Mill, Yeovil
Chapter 15: Area West	Proposal CR/BRYM/3	Land at Abbey Farm, Yeovil
	Proposal HG/CHAR/2	Land off Lower Touches, Chard
	Proposal HG/ILMI/1	Land north of Summervale Medical Centre, Wharf Lane, Ilminster
	Proposal MU/ILMI/2	Land off Shudrick Lane, Ilminster



## CHAPTER 5: POLLUTION CONTROL

### INTRODUCTION

5.1 Pollution control, as an aspect of the planning system, is dealt with in PPS 23 Planning and Pollution Control. Paragraphs 13 & 21 and Appendix A of PPS 23 cover the role of development plans. This includes air quality objectives set by Regulations made under Part IV of the Environment Act 1995 and any action plans designed to achieve them in designated Air Quality Management Areas. Accordingly in drawing up this Local Plan, South Somerset D.C. has taken account of predictions about future air quality as contained within the First Stage Air Quality Review and Assessment (1998) and the Second Stage Review and Assessment of Air Quality (2000). Noise is controlled under PPG 24. Authorities are urged to take account of the relevant context of structure plans but not to include policies on matters that should be dealt with in waste local plans.

### LOCAL PLAN OBJECTIVES

5.2 The objectives of Local Plan policies dealing with potentially polluting uses are:-

1. To protect people from risks to their health and safety and damage to their amenity; and
2. To safeguard the natural environment.

### POLICIES

5.3 Policies EP1 to EP9 seek to control new development in the vicinity of existing sources of pollution, the establishment and extension of uses which give rise to pollution, and pollution which might be caused by the demolition of buildings.

#### Pollution and Noise

5.4 A need for local plans to contain policies which seek to control pollution including noise is recognised in Planning Policy Guidance Notes, 12, and 24 and Planning Policy Statements 1 and 23. Specifically, Planning Policy Statement 23 recognises the need for planning policies to take account of the potential effects on health, the natural

environment and the general amenity of the release of noise, dust, polluting chemicals, vibration, light or heat into water, land or air.

5.5 However, statutory powers which control pollution exist outside the planning system (for example, the Environmental Protection Act 1990) and the granting of planning permission does not give exemption from these. Furthermore, the 1995 Environment Act gives further guidance on air pollution and indicates that such matters can be a material land use consideration.

5.6 Policy EP1 requires that new noise sensitive developments such as housing, hospitals and schools are not exposed to noise above specified levels, whether originating from major roads, aircraft, railways, factories or other land uses. These noise levels are at present specified in Planning Policy Guidance Note 24. In particular, new residential development is often proposed in close proximity to major roads and the new dwellings are potentially affected by levels of noise. The aim of Policy EP1 is to ensure the amenity of the occupants of the new properties and buildings are adequately protected, both within and outside (in the garden) of the housing concerned.

5.7 Where appropriate, planning applications should be accompanied by a noise assessment, in accordance with British Standard 4142: 1997 (Method for rating industrial noise affecting mixed residential and industrial areas) or the Calculation for Road Traffic Noise. Both these approaches take account of remedial measures to alleviate noise. The noise assessment should include details of any noise mitigation measures which would be incorporated into the proposed development. The council will impose planning conditions and will seek obligations in appropriate cases to ensure that any proposed noise mitigation measures which are necessary to ensure an adequate level of residential amenity for future residents are implemented and retained.

5.8 It should be noted that the existence of four air stations/fields within South Somerset has an influence on the amenity of parts of the Plan area due to aircraft noise generated. The planning and aircraft noise guidelines are enclosed as Appendix A.6. These guidelines have been prepared in the light of government guidance and seek to avoid adding to the number of people subject to noise disturbance and requires the control of development in the vicinity of GKN Westland; RNAS Yeovilton; and RNAS Merryfield. With regard to the fourth location within South Somerset which has lawful use as an airfield and runway, namely Henstridge Airfield, historically, activity levels have been low. Should activity levels significantly increase and have an influence on amenity of parts of the Plan area due to aircraft noise generated, then the need for guidelines will be reviewed.

#### Policy EP1

Applications for noise sensitive developments will not be permitted in the vicinity of major roads, railways, airfields and other noise generating areas (including some industrial, commercial, sport, entertainment and recreational developments), where the proposal would be subject to unacceptable levels of noise nuisance. In determining planning applications within those areas shown on the proposal map as lying within aircraft/helicopter noise exposure zones, the council will apply the guidelines set out in appendix A6.

5.9 Policy EP2 seeks to control potentially noise generating uses in the vicinity of noise sensitive developments. The District Council believes that applications should be assessed in terms of their activity, vehicular movements and where appropriate public address systems and ventilation plants. Where appropriate, permission will be subject to conditions requiring the incorporation of noise attenuation measures and controlling hours of use and deliveries. Applications for potential noisy developments will be expected to be accompanied by an appropriate noise assessment (Method for rating industrial noise affecting mixed residential and industrial areas).

5.10 Special consideration will be given to development proposals which would generate levels of noise which would affect the quiet enjoyment of AONBs. The effect of noise on the enjoyment of other areas of landscape will also be taken into account when considering other development proposals.

#### Policy EP2

Applications for potentially noise generating uses (including industrial, commercial, sport, entertainment, transport and recreation uses) will be permitted only where they would not be detrimental to the amenity of noise sensitive developments in the vicinity.

#### Light Pollution

5.11 Light pollution is a general term which refers to the effect of excessive or intrusive artificial light arising from poor or insensitive design. Three categories have been identified:

- Sky glow - the (usually) orange glow observed above urban areas caused by a scattering of artificial light by dust particles and water droplets in the sky.
- Glare - the uncomfortable brightness of a light source when viewed against a dark background.
- Light trespass - light spilling beyond the boundary of the property on which the light is located.

5.12 In 1995, the White Paper: Rural England - A Nation Committed to a Living Countryside, made clear the Government's belief that the intrusiveness of lighting on rural roads, village streets and in other areas of the countryside should be kept to a minimum. The White Paper suggested that this could be achieved by improving design standards for lighting, varying light levels where these are inappropriate for rural settings, and taking advantage of opportunities to remove unnecessary lighting.

5.13 In law, 'light pollution' is not a statutory nuisance, although the potential and actual consequences of inappropriate lighting may be subject to various legal responses. Within the planning system, development plans may

regulate the lighting considerations arising out of any new proposals but the development control process is constrained by the problem that many of the lighting installations which cause this form of pollution fall outside the scope of planning.

- 5.14 Light pollution is an issue of increasing concern to this Authority in two broad areas: firstly, through wasted energy. However, as explained above, not all forms of lighting require planning permission and any action the District Council can take is, therefore, limited. For example, planning permission is not needed for either security lights on private property or street lighting, which can be the greatest cause of complaint.
- 5.15 Secondly, the environmental and visual nuisance from glare and light spillage is of concern. For example, neighbouring properties can be severely affected by direct light but also new development that takes place in previously unlit areas will add to the amount of light pollution in the sky and tend to blur the distinction between urban and rural areas.
- 5.16 Policy EP3 and Appendix A.7 gives advice on how the amount of light pollution is to be minimised by using the minimum intensity of light necessary. Details of any external lighting or floodlighting required as part of any new development should be submitted as part of the planning application. Such details should include the siting, direction, intensity of illumination and hours of operation (Appendix A.7 applies).
- 5.17 The Council accepts that it will need to take a flexible approach in order to provide adequate illumination levels, particularly for road safety, town centres and as a crime prevention measure. However, the District Council believes that light pollution is best addressed at the planning application stage and will give consideration to the proposed lighting to ensure that it is appropriate for the purpose and minimises any visual pollution or nuisance.
- 5.18 Light pollution is generally of most concern in settlements, particularly residential areas where nuisance can often result. But the

District Council will also have regard to the impact of lighting on edge of town locations and rural areas, where it can have a marked effect on the character of the locality, and close to areas of special wildlife or landscape interest.

### Policy EP3

Lighting within all new developments and environmental improvements will be designed to minimise the effect of sky glow whilst providing adequate illumination levels for highway safety and crime prevention measures.

When considering matters of lighting the district council will not grant planning permission where the proposal would:

1. Cause harm to the occupants of properties by virtue of the intensity, direction and hours of lighting;
2. Result in road safety problems from dazzle or distraction to drivers;
3. Adversely affect the character and appearance of the locality; and
4. Adversely affect designated areas of wildlife or landscape interest

In locations where an unrestricted permission would conflict with the above criteria, planning permission may be granted restricting the hours of operation or requiring shielding to reduce light spillage.

### Building Waste

- 5.19 Large amounts of building waste tend to be deposited in convenient valleys and depressions. This can adversely affect landscape or ecological value and it also represents a squandering of the earth's finite resources through the winning of fresh supplies of building stone and aggregates. On the other hand, recycling of inert waste near its source is an environmentally sound practice and there is great scope for the re-use of inert building waste, i.e. material which cannot be reclaimed for its original purpose. Most topsoil and rubble can be retained on site for use in landscaping around a development and suitable material can be

crushed and recycled as low grade hardcore and aggregate.

- 5.20 In the interest of environmental protection and to avoid the unnecessary transportation and disposal of usable building materials, inert waste material should be re-used.

#### Policy EP4

All development proposals should contain details setting out the way in which waste materials generated by the development will be most appropriately disposed of. The details shall demonstrate that, so far as is practicable, inert waste materials will be used on site as part of the proposed development.

- 5.21 This policy will be implemented by means of suitable conditions imposed on planning permissions. However, care will need to be taken to ensure that re-cycling operations do not themselves cause nuisance. For example, where mobile crushers are used on site, machinery should be located to minimise any possible noise or dust nuisance. Alternatively, where such activities take place adjoining sites of nature conservation value, the storing and working of such material should be carried out in a manner which does not give rise to pollution. The Council recognises that this could cause difficulties on some sites, so consideration will be given to the most appropriate solution in each case.

- 5.22 However in many instances, initiatives for recycling rest either with the individual or with the priorities of society at large. This Council already recognises that it has a role to play in facilitation the recycling of many waste products and is working with the other local authorities of Somerset, as the Somerset Waste Partnership, so that all household waste is managed under one agreed waste management strategy

#### Contaminated Land

- 5.23 Planning Policy Statement 23 states that the principle of sustainable development means that, where practicable, those sites affected by contamination should be redeveloped thereby contributing to the regeneration of

urban areas, and protection of open areas and the countryside. Land may be contaminated as a result of previous activity. The nature and extent of the contamination will depend on the particular contaminative substances which are present.

- 5.24 All development proposals on, or in proximity to, land which may be contaminated must show evidence of having carried out proper investigations into which pollutants are present, and the risk to public health and safety, the water environment, and to local wildlife as a result of redevelopment. Where land is proved to be contaminated, the Local Planning Authority will require that appropriate measures are taken by the developer to minimise any risk to health or the environment.

- 5.25 Whilst the Government's preferred approach to contamination is that it should be dealt with on the site itself, the Council recognise that remedies must be appropriate to the problem presented. Other powers are available to the Council under a variety of environmental health and Building Regulations legislation and other agencies also have responsibilities.

#### Policy EP5

Applications for development of land known to be contaminated, or where there is good reason to believe that contamination may exist, will be required to be accompanied by a full assessment of the nature and extent of contamination.

Development will not be permitted unless practicable and effective measures are to be taken to treat, contain or control any contamination so as not to:

- Expose the occupiers of the development and neighbouring land uses including, in the case of housing, the users of gardens, to unacceptable risk;
- Threaten the structural integrity of any building built, or to be built, on or adjoining the site;
- Lead to the contamination of any watercourse, water body or aquifer;
- Threaten water or electrical supply;

- Cause the contamination of adjoining land or allow such contamination to continue.

Usually, contamination should be treated on site. Any permission for development will require that the remedial measures agreed with the authority must be completed as the first step in the carrying out of the development.

#### Demolition and Construction Sites

- 5.26 The principle of sustainable development will place a greater emphasis on regeneration of urban areas and the recycling of derelict sites within the Plan area. Good quality environment is essential for human health and the environment at large. However, certain activities may cause air and noise pollution through unregulated working times and practices. To these ends, Policy EP6 seeks to control pollution which might be caused by the demolition of buildings or the redevelopment of sites. Where appropriate, British Standard 5228 (1984) "Noise Control on construction of open sites" will apply to construction sites.

#### **Policy EP6**

Permission or consent to demolish or construct buildings which are adjacent to or in close proximity to residential properties or commercial or areas which attract significant numbers of people, will be subject to conditions restricting the hours of operation and to other measures to limit the affect of noise, dust, fumes and vibration.

#### Potential Odour Generating Developments

- 5.27 Paragraph 11 of Planning Policy Statement 23: Planning and Pollution Control states *"Pollution issues should be taken into account as appropriate in planning decisions (having regard to development plan documents and all material considerations). Where for example, new housing is proposed close to a source of potential pollution, the risk of pollution from the normal operation of the process or the potential impacts and the extent to which the proposals address such risks will influence whether or not development should proceed..."*

- 5.28 It is important that the potential polluting uses identified below in EP7 are not permitted where they would create nuisance to the occupiers of a protected building (as defined in paragraph D.1 of Part 6 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995). Such buildings are those which are or would be normally occupied by people. However, the definition makes clear that it does not include dwellings or other buildings used in connection with agriculture. The occupiers of such buildings often need to occupy buildings close to the agricultural activities for operational reasons. The converse is also true in that new protected buildings should not be permitted where there is a risk of odour nuisance to its occupants from existing premises or activities. The converse is also true in that buildings should not be permitted where there is a risk of odour nuisance to occupiers.

- 5.29 The Local Planning Authority will achieve the planning goal of creating and maintaining good living environments by careful control of new livestock units and equipment and development in the vicinity of existing livestock units, slurry lagoons or tanks, which require planning permission and are not development permitted by the Town and Country Planning General Development Order.

#### **Policy EP7**

Proposals for new livestock units, extensions to existing units, slurry lagoons or tanks will not be permitted where odour would cause an unacceptable level of nuisance to the occupiers or users of a protected building as defined in paragraph d.1 of part 6 of schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995.

New protected buildings as defined in paragraph d.1 of part 6 of schedule 2 of the Town and Country Planning (General Permitted Development) order 1995 will not be permitted near to new livestock units, extensions to existing units, slurry lagoons or tanks where odour would result in an unacceptable nuisance to the future

occupiers or users of the protected building.

### Sewage Treatment Works

5.30 Sewage treatment works can be “bad neighbours” because of odour nuisance and other problems. It is technically difficult and costly for water companies to remedy these problems and, to achieve satisfactory living environments, new development should avoid affected areas.

5.31 According to Wessex Water, there is no nationally agreed standard formula for the extent of “buffer zones” around sewage treatment works in this country and the extent of a “buffer zone” cannot be based solely as a function of wind direction and velocity. The operational regime of sewage treatment works, together with other factors such as meteorological characteristics, indicates that odour nuisance may be experienced to a distance of 300-400 metres. However, whilst odour nuisance does vary from site to site, one of the principal aims of good planning is to create a satisfactory living environment. Accordingly, restricting development around sewage works is considered a valid land use matter.

### **Policy EP8**

**Development or redevelopment proposals which would involve the regular occupation of premises or which would attract a significant number of people will not be permitted in the vicinity of sewage treatment works where unacceptable levels of odour or other nuisance would be caused to the future occupiers or users of the development.**

### Control of other Potentially Polluting Uses

5.32 As indicated above, the District Council believes that Local Plan policies should aim to keep apart developments which are sensitive to pollution. However, the converse is also true with activities which are the potential source of nuisance. Accordingly, Policy EP9 aims to control such activities in order to ensure that they are not permitted where they would create nuisance. Statutory Guidance to

the Environment Act 1995 Part IV (Air Quality and Land Use Planning, LAQM G4 00) provides advice on the link between air quality considerations and the planning process. Paragraphs 38 to 44 of the Statutory Guidance in summary advise that

*“Any air quality consideration which relates to the use and development of land is capable of being a material planning consideration - whether it will depend upon the facts of the particular case .-. and must be weighed against other material considerations.”*

5.33 For agricultural enterprises proposals will be expected to follow the advice published by the former Ministry of Agriculture, Fisheries and Food – Codes of Good Agricultural Practise for Protection of Soil, Air and Water. Similarly, the Environment Agency seeks to work with the Highway Authorities to reduce polluting run-off through various techniques such as reed beds. Accordingly proposals for new roads and car parks will be expected to incorporate the use of Best Management Practices to prevent pollution arising from surface water discharge.

5.34 In assessing the impact of development on air quality, the Local Authority will have regard to the Statutory Air Quality Objectives, the results of air quality reviews and assessments and the content of any Air Quality Management Action Plans. Planning permission may be refused on air quality grounds where a Statutory Air Quality Objective is exceeded as a direct consequence of the proposed development.

### **Policy EP9**

**Applications for development which are a potential source of pollution (of land, air or water by factors including noise, dust, polluting chemicals, odour, vibration, light or heat) will be required to be accompanied by full details of means of pollution control.**

**Permission will be granted where the pollutant can be adequately controlled and where the pollution control measures would not be unacceptably harmful, in themselves, to the character of the area or the amenity of neighbouring sites.**

Planning permission may be refused on air quality grounds where a statutory air quality objective is exceeded as a direct

consequence of the proposed development.

