



SCOTTISH EXECUTIVE  
Development Department

PLANNING

# **Air Quality and Land Use Planning**

March 2004



# SCOTTISH EXECUTIVE

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Your ref:  
Our ref:

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## **AIR QUALITY AND PLANNING GUIDANCE**

I am writing to draw your attention to the Scottish Executive's policy guidance on air quality and planning. The guidance, which is enclosed with this letter, was originally published in February 2003 as part of a wider ranging guidance document issued by the Executive's Environment and Rural Affairs Department to assist local authorities in carrying out their local air quality management (LAQM) responsibilities under the Environment Act 1995.

LAQM is a statutory requirement for local authorities, as detailed in the 1995 Act. The Act also makes it clear that authorities must have regard to any guidance issued by the Executive in relation to LAQM. It is important that the LAQM process is dealt with in an interdisciplinary way by local authorities if its aims are to be met, with support and endorsement from all relevant departments. The planning system has a particularly important role to play both in efforts to improve air quality and to at least ensure that existing air quality does not deteriorate. The enclosed guidance is being reissued as a separate document to emphasise this.

The guidance should be read in conjunction with SPP1: The Planning System (notably paragraphs 57 and 65). The planning system should not be used to secure objectives that are more properly achieved under other legislation. Planning decisions are primarily a matter for planning authorities and intervention by Ministers is generally only in circumstances where a proposed development raises an issue of national importance, or where proposals represent a significant departure from the approved structure plan and/or national planning guidance. When air quality is a material consideration in planning applications which come before Scottish Ministers they will take account of the attached policy guidance in deciding whether to call-in the case for their own decision.

Planning Advice Note 51: Planning and Environmental Protection also provides information on the relationships between the planning system and various environmental protection regimes. It is our intention to review PAN 51 later in the year which will give us the opportunity to update the advice on air quality. In the meantime, the attached guidance is in response to the commitment in paragraph 26 of PAN 51 to provide further advice on planning and the Air Quality Strategy.



I would therefore ask you to take note of the guidance and to ensure that it receives the necessary circulation within your department.

If you have any questions please contact Nick Evans (0131 244 7552) or by e-mail to [nick.evans@scotland.gsi.gov.uk](mailto:nick.evans@scotland.gsi.gov.uk)

Further copies of the guidance are available from the Scottish Executive Development Department, Planning Division, Area 2-H, Victoria Quay, Edinburgh EH6 6QQ (0131 244 7066) and on the Scottish Executive web site at [www.scotland.gov.uk/planning](http://www.scotland.gov.uk/planning).

Yours sincerely



**JIM MACKINNON**  
**Chief Planner**



# Air Quality and Land Use Planning

## **Preface**

The Scottish Executive Environment Group published *Local Air Quality Management: Revised Policy Guidance* in February 2003. It contained a section on Air Quality and Land Use Planning. To make this more easily available it is repeated below, with minor updating and adjustments to make it a self contained publication.

## **Background**

1. The land use planning system is integral to improving air quality. Local authorities need to understand the links between air quality and land use planning policies if the planning system is to contribute to improving air quality. This guidance should be read in conjunction with Planning Advice Note (PAN) 51: *Planning and Environmental Protection*. PAN 51 advises on the policies and practices that should be adopted by planning authorities and others involved in planning new developments and redevelopments.

2. The Scottish Executive expects local authorities to ensure that this guidance and the advice in PAN 51 are taken into account by all relevant departments. The guidance is designed to help planning departments within local authorities to carry out their functions and may be material in preparing development plans and in determining planning applications. It will also help businesses, the Scottish Environment Protection Agency and the public, and anyone else involved in the planning process.

## **Local air quality management**

3. Under the Environment Act 1995 and associated regulations<sup>1</sup>, all local authorities are required to regularly review and assess air quality in their areas against seven of the nine air quality objectives in the Air Quality Strategy for England, Scotland, Wales and Northern Ireland. The objectives are set for pollutants of particular concern for human health – benzene, 1,3-butadiene, carbon monoxide, lead, nitrogen dioxide, ozone, particles, polycyclic aromatic hydrocarbons (PAH) and sulphur dioxide – and the regulations prescribe dates by which they should be achieved. Ozone and PAH are not covered by the regulations.

4. If the review and assessment exercise indicates that any of the objectives is unlikely to be met by the required date, the local authority concerned must declare an Air Quality Management Area (AQMA) and draw up an action plan outlining how it intends to work towards the objectives. Further information on local air quality management can be found in the revised policy guidance issued to all local authorities in February 2003, available on the Executive's air quality web page.

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<sup>1</sup> Air Quality (Scotland) Regulations 2000 and Air Quality (Scotland) Amendment Regulations 2002.

## The land use planning context

5. Local authorities should integrate air quality considerations within the planning process at the earliest possible stage. To facilitate this they should consider developing supplementary planning guidance or protocols. Although the land use planning system does not offer any quick-fix solutions to areas of poor air quality, it can do much to improve local air quality in the longer term, as well as ensuring in the short term that existing air quality does not deteriorate.

6. In addition to PAN 51, planning policies relevant to local authorities' air quality responsibilities are contained in the National Planning Policy Guidelines (NPPGs) and their successors, Scottish Planning Policies (SPPs). These:

- Set out the Executive's policies on land use planning;
- Explain how the planning system can help meet the objectives of sustainable development;
- Are regularly reviewed and updated;
- Should be applied to development plans; and
- May also be a material consideration in individual planning applications.

Among the most relevant to local air quality management are:

- SPP 1: *The Planning System*
- SPP 2: *Economic Development*
- NPPG 4: *Land for Mineral Working*
- NPPG 6: *Renewable Energy Developments*
- NPPG 16: *Opencast Coal and Related Minerals*
- NPPG 17: *Transport and Planning*

7. The Executive updates NPPGs/SPPs from time to time. Copies and other planning information can be found on the Executive's website at [www.scotland.gov.uk/planning](http://www.scotland.gov.uk/planning)

8. Planning authorities should also be aware of the good practice guide on air quality and land use planning, prepared by Arup Environmental on behalf of the Royal Town Planning Institute (RTPI) in April 1999. This sets out in general terms the relationship between air quality issues and planning decisions. It also tries to establish how far the planning process itself can contribute to air quality objectives. The RTPI guidance is likely to be revised during 2004.

## Planning and pollution control

9. PAN 51 explains the relationship between the land use planning and pollution control systems. The systems are separate but complementary. Close co-ordination between planning authorities and pollution control regulators helps to minimise unnecessary duplication of effort.

10. If a proposed emission source does not require a pollution control permit (e.g. if the source is not regulated under Integrated Pollution Control (IPC) or Local Air Pollution Control (LAPC), gradually being replaced by Integrated Pollution Prevention and Control (IPPC), or if only some of its emissions are regulated under the Clean Air Act 1993) then planning authorities might, in some circumstances, consider adding conditions to the planning permission to tackle the source's possible effect on local air quality. These conditions might require a scheme of monitoring and mitigation, covering planning concerns to be approved by planning authorities before any development went ahead. In these cases, planning authorities should work closely with SEPA and/or the environmental health department, as appropriate. Where conditions are not enough to overcome the planning objection to a development proposal, it may be appropriate for the parties to enter into a planning agreement. Section 75 of the Town and Country Planning (Scotland) Act 1997 enables any person interested in land in the area of a planning authority to enter into a planning agreement with the authority. Planning authorities should, however, avoid unnecessary conditions or agreements that duplicate the effects of other controls. Also, conditions that conflict with other controls would be *ultra vires* (beyond the authority's powers) because they are unreasonable.

### **Development plans**

11. Some issues that should be considered in the preparation of development plans, and may also be material in the consideration of individual planning applications, are as follows:

- Ensuring that the land use planning system makes an appropriate contribution to the achievement of air quality objectives;
- the need to identify land, or establish criteria, for the location of potentially polluting developments and the availability of alternative sites;
- inclusion of policies on the appropriate location for new development, including reducing the need to travel and promoting public transport;
- the potential effects of particular types of developments on existing and likely future air quality, particularly in and around AQMAs; and
- the requirements of air quality action plans.

### **Environmental impact assessment and the planning process**

12. Environmental impact assessment (EIA) is an important procedure for ensuring that potentially significant environmental effects (direct and indirect) of a proposed development are fully understood and taken into account before the development is approved or refused. The types of development for which an EIA may be required are given in the Environmental Impact Assessment (Scotland) Regulations 1999.

13. The developer of a project which is subject to EIA is required to prepare an environmental statement describing the likely effects of the project. The planning authority must take this into account when considering the planning application. The information to be included in the environmental statement is described in Schedule 4 to the Regulations. It must include a description of the development, potentially significant environmental effects (including air quality before and after the proposed development), mitigating measures envisaged, a description of any alternatives considered by the applicant and the reasons for the final choice, and a non-technical summary.

### **Air quality as a material consideration**

14. Air quality is capable of being a material planning consideration, in so far as it affects land use. Whether it actually is will depend upon the facts of the case. Wherever a proposed development is likely to have significant air quality impacts, close co-operation will be essential between planning authorities and those with responsibility for air quality and pollution control. The impact on ambient air quality is likely to be particularly important where:

- the proposed development is inside or adjacent to an AQMA;
- the development could result in designation of a new AQMA; and
- the granting of planning permission would conflict with, or render unworkable, elements of a local authority's air quality action plan.

15. This does not mean that all planning applications for developments inside or adjacent to AQMAs should automatically be refused if the development is likely to affect local air quality. Such an approach could sterilise development, particularly where authorities have designated large areas as AQMAs. All such applications will continue to be considered according to their individual merits on the basis of all available information.

16. In considering whether a site inside an AQMA is an appropriate location for new housing, planning authorities should consider where within the AQMA likely exceedences have been identified, how great these exceedences are and when it is forecast that the objectives will be met. It should also consider the potential effect on air quality of the new housing development.

### **Summary**

17. This guidance is intended to serve only as a brief summary of some of the main ways in which land use planning can help deliver air quality objectives. It builds on the detailed advice contained in the relevant NPPGs/SPPs and PAN 51, but is not intended to serve as a substitute for them. For further information and advice on a range of planning issues, authorities may wish to visit the Executive's website.

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