



National Planning Policy Framework – preventing unacceptable risks from pollution

Quick guide 361_12

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What's this document about?

This document sets out the key messages and planning policy hooks on preventing and managing environmental risks in the [National Planning Policy Framework](#) (NPPF).

It provides an overview of the pollution control framework in England, including the links between the planning and permitting regimes and sets out the roles and responsibilities of local authorities, developers/operators and the Environment Agency.

Use this document to support our position in respect of land use issues and to avoid duplication of permitting regulations when responding to planning consultations from local planning authorities (LPAs), developers, government departments and agencies. It should be used until other relevant internal or external guidance has been updated.



Document details



Related documents

Who does this apply to?

It applies to all area and regional staff who are involved with and respond on behalf of the Environment Agency to planning consultations.

This includes Planning Liaison¹ (PL) teams who respond to planning application and/or Local Plan consultations from LPAs, or consultations from the Marine Management Organisation. Functional teams who, as part of the internal consultation process provide technical input to area PL teams, may also find this document useful.

Although the NPPF only sets out planning policy for England, PL colleagues in Wales will need to be aware of it in light of the duty on LPAs to cooperate across local authority boundaries.



Feedback

Contact for queries

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Note for external readers

This document is primarily aimed at Environment Agency staff. As such, some of the hyperlinks will not work for external readers. If you need access to the linked content, please contact your local Planning Liaison team.

¹ From 1 June 2012 Planning Liaison teams will be known as Sustainable Places teams.

Introduction

The Integrated Pollution Prevention and Control (IPPC) regime provides an integrated environmental approach to the regulation of certain industrial activities. The IPPC Directive is implemented in England and Wales by the Environmental Permitting Regulations 2010 (EPR). The [Industrial Emissions Directive](#) (IED) is expected to be implemented within the next twelve months and this will replace the IPPC Directive.

The Environment Agency and local authorities both have responsibilities for regulating certain activities.

The planning system has a key role to play in protecting and improving the environment. Local Plans can direct potentially polluting developments to appropriate locations and facilitate the redevelopment of polluted sites. Development management decisions can prevent or mitigate potentially polluting developments, protecting the environment and human health and wellbeing. Land use decisions should complement pollution control decisions to help deliver sustainable development.

The Pollution Control Framework in England

Integrated Pollution Prevention and Control (IPPC)

The aim of the IPPC Directive is to prevent, reduce and eliminate pollution from the most significant industrial and agricultural activities. In England the IPPC Directive has been brought into law through the Environment Permitting Regulations. The EPR manage the activities of significant sites, called “installations” by regulating:

- raw material and energy use
- how the site operates and the technology used to limit emissions into air, water and land
- how any waste produced is managed
- accident prevention

Installations listed under Part A (1) of the EPR are regulated by the Environment Agency. Installations listed under Part A (2) are regulated by local authorities. The activities at an installation are expected to be operated using “Best Available Techniques” under a permit.

Installations listed under Part B are regulated by local authorities and only emissions to air are controlled.

Environmental Permitting Regulations (EPR)

The Environmental Permitting (England and Wales) Regulations came into effect on 6 April 2008. They brought Waste Management Licensing, Pollution Prevention and Control Permitting and a number of Directives into a single regulatory regime.

From 6 April 2010 the scope of the Regulations was expanded to include the permissions previously called water discharge consents, groundwater authorisations, radioactive substances authorisations and registrations.

Permits are required for activities or operations comprising:

- installations and mobile plant that carry out certain industrial, waste and intensive agriculture activities
- waste operations
- water discharge and groundwater activities
- radioactive substances activities
- mining waste operations

Further guidance on these can be found in the [related documents](#) at the end of this guide.

We are also developing [guidelines](#) on the relationship between planning and the environmental permitting regimes to clarify roles and responsibilities and reduce potential overlap. You should use the planning and the environmental permitting regimes guidelines when you comment on relevant planning applications.

Hazardous substances control

The Planning (Hazardous Substances) Act 1990 (as amended) applies planning control to the storage and use of hazardous substances. The hazardous substance authority (normally the district council) will consider whether the use and storage of significant volumes of hazardous substance is appropriate in a particular location.

Where hazardous substances consent is required for substances that are also subject to EPR control, the two authorities should co-ordinate their considerations. The Environment Agency and the Health and Safety Executive are statutory consultees for all hazardous substance consent applications.

Local air quality management

Local authorities (LAs) are responsible for reviewing and assessing ambient air quality. If there's a risk that pollutant levels will exceed prescribed objectives then LAs are required to designate Air Quality Management Areas (AQMA) and write action plans to meet the objectives. Developments could affect existing air quality or create new exposure to poor air quality.

Local Plans and decisions on planning applications should help achieve EU air quality limit values and local air quality action plans (NPPF Para 124). LPAs may use guidance developed by Environmental Protection UK on "[Development Control - Planning for Air Quality](#)".

Air quality is a material consideration in planning and developments have been refused permission because of air quality concerns.

Water Framework Directive

We deal with Water Framework Directive (WFD) requirements to restrict levels of pollutants through our permits. Local authorities and the planning system can help prevent pollutants being released from the development of land affected by contamination (NPPF Paras 111, 120, 121).

You should refer to our Quick Guides on [planning and the Water Framework Directive](#) and [planning and contaminated land](#) when you give advice on Local Plans and planning applications.

Planning and pollution control

The local authority's role

LPAs are responsible for setting the strategic land use priorities for their area.

The planning system should prevent:

“both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability” (NPPF Para 109).

In drawing up their Local Plans, LPAs should make sure new development is appropriate for its location (NPPF Para 120). This includes potentially polluting development and new developments (for example housing, schools or hospitals) that may be affected by existing sources of pollution. LPAs should consider site-specific policies for the location of potentially polluting activities and criteria against which development management decisions will be made.

LPAs are encouraged to hold pre-application discussions with developers and pollution control authorities. This will allow early identification of any ‘showstopper’ or serious concerns that could prevent or significantly affect a proposed development, or stop a permit from being issued (NPPF Para 190).

The LPA shouldn't try to control processes or emissions where these are subject to approval under other pollution control regimes (NPPF Para 122). They should assume these regimes will operate effectively.

The LPA should consult with the relevant pollution control authority before determining planning applications where pollution could be an issue.

The developer's / operator's role

The right information is crucial to good decision making and developers should discuss what's required with LPAs and pollution control authorities before they submit a planning applications (NPPF Para 192). Failure to provide the right information can lead to delays and even refusal of permission.

Where an environmental permit is required in addition to planning permission, developers should, wherever possible, submit applications in parallel (NPPF Para 191). This will allow for conditions required under pollution control permits, for example, chimney heights, to be fully considered in the planning application. Parallel tracking is particularly important where the local planning authority will need to carry out a Habitats Regulations Assessment so that our views can inform the decision on the planning application.

Developers/operators must secure planning permission before a permit can be issued for a waste management activity.

The Environment Agency is a statutory consultee for Local Plans, certain types of planning application and developments requiring an Environmental Impact Assessment (EIA). The [Town and Country Planning \(Development Management Procedure\) \(England\) Order 2010 \(DMPO\)](#) sets out the developments we are a statutory consultee for. We have developed [guidance](#) for local planning authorities that sets out the type of planning consultations we wished to be consulted on.

As a statutory consultee we are expected to take a pro-active approach, providing advice in a timely manner at all stages in the development process (NPPF Para 190). Paragraph 165 in the NPPF requires planning policies and decisions to be based on up-to-date information about the environment including [River Basin Management Plans](#).

When we respond to consultations from LPAs we should provide technical advice on the likely impacts from potentially polluting development, particularly where there's uncertainty about issuing of a permit. Similarly for developments on land affected by contamination we should provide advice on the likely impacts that disturbing the contamination will have on the environment. Planning liaison should carry out appropriate consultation with technical teams.

We should assess how appropriate and effective any measures put forward by developers to mitigate environmental impacts will be. Where there are technical solutions to resolve issues that would otherwise prevent a grant of planning permission we should take a 'yes if' approach and explain the steps required to overcome the problems.

We should clearly explain to LPAs the issues that we can control in an environmental permit, but we shouldn't try and duplicate these in the details or conditions in a planning permission.

Related documents

Links

[Environmental Permits – who needs one and how to apply](#)

[National Planning Policy Framework](#)

[National Planning Policy Framework – Quick Guide](#)

[Environmental Permitting Regulations – Guidance on Environment Agency's web site](#)

[Defra guidance on Integrated Pollution Prevention and Control](#)

[Planning \(Hazardous Substances\) Act 1990](#)

[External Consultation list](#)

[Guidelines for developments requiring planning permission and environmental permits – Working draft](#)

[1045_08 Using national standard planning paragraphs for responding to planning applications](#)

[Air Quality Information Note 3 – The Environment Agency's Role in Regulating to Improve Air Quality](#)
