

DM40 Protection of the Environment and Health – Pollution and Nuisance⁸⁷

Planning permission will be granted for development proposals that can demonstrate they will not give rise nor be subject to material nuisance and/or pollution that would cause unacceptable harm to health, safety, quality of life, amenity, biodiversity and/or the environment (including air, land, water and built form). Proposals should seek to alleviate existing problems through their design.

Proposals liable to cause or be affected by pollution and/or nuisance will be required to meet all the following criteria:

- a) be supported by appropriate detailed evidence that demonstrates:
 - i. the site is suitable for the proposed use and will not compromise the current or future operation of existing uses;**
 - ii. pollution and/or nuisance will be minimised;**
 - iii. appropriate measures can and will be incorporated to attenuate/mitigate existing and/or potential problems in accordance with national and local guidance; and**
 - iv. appropriate regard has been given to the cumulative impact of all relevant committed developments as well as that of the proposal and/or effect of an existing pollution/nuisance source.****
- b) support the implementation of local Air Quality Action Plans and help support the local authority meet the Government’s air quality and other sustainability targets;**
- c) provide, when appropriate, an Air Quality Impact Assessment to consider both the exposure of future and existing occupants to air pollution, and, the effect of the development on air quality. Air quality improvements and/or mitigation must be included wherever possible;**
- d) have a positive impact, where practicable, on air quality when located within or close to an Air Quality Management Area and not worsen the problem;**
- e) particular regard must be given to the impacts of emissions from transport, flues, fixed plant, and, heat and power systems;**
- f) new biomass combustion and CHP plants associated with major developments will not be acceptable in or near an Air Quality Management Area and sensitive receptors such as the Royal Sussex**

⁸⁷ Pollution and nuisance include: noise, vibration, smell/odour, light, heat, dust, dirt, PM10, NO2 fumes, gases, steam, radiation, smoke, invasive non-native species/diseases (including Japanese knotweed, Himalayan Balsam and Dutch Elm Disease), electromagnetism, other polluting and nuisance emissions, and other forms of disturbance.

County Hospital due to the need to comply with nitrogen dioxide limits; and

- g) ensure outdoor lighting is well designed; low impact; efficient; the minimum necessary with an appropriate balance between intensity, fittings, height and structures; and, not cause unacceptable detriment to public and highway safety, biodiversity, in particular priority habitat and species, the night sky and the South Downs National Park International Dark Sky Reserve.**

When a proposal, including the remediation measures, invokes the need for an Environmental Impact Assessment the findings of the assessment must be appropriately taken into account.

Supporting Text

2.304 Pollution and nuisance can have a detrimental impact on amenity as well as serious health impacts on people, the environment and nature conservation. Government policy advises that policies and decisions must ensure that development is appropriate to its location and new use to prevent unacceptable risks from pollution. It highlights the need to take into account health, quality of life, amenity, the natural environment and the potential sensitivity of certain areas or a proposed development when assessing the adverse effects of pollution. The need to protect the water environment is addressed in Policies DM42 and DM43.

2.305 The issue of air pollution and improving the quality of the air that people breathe is one of the city's principal challenges and is a strategic objective in City Plan Part One. Two Air Quality Management Areas (AQMAs) are currently designated within the city; one covering the city centre and Portslade, and a second smaller area that includes Rottingdean High Street and its junction with the A259. The main cause of pollution in both areas is emissions from diesel vehicles. A key contributor to poor air quality in the city is emissions from all types of vehicles in confined spaces. The city council has published an Air Quality Action Plan (AQAP) which sets out a series of measures to address and mitigate the causes of pollution in these areas. The AQAP is updated annually in the Air Quality Annual Status Report.

2.306 The AQAP builds on a series of measures that have already been implemented in the city including one of the UK's first bus Low Emission Zones and the introduction of lower-emission buses. The main aim of the 2015 renewed AQAP is to achieve compliance with the 40 $\mu\text{g}/\text{m}^3$ level for nitrogen dioxide in residential areas parallel to transport corridors, which became a legally binding standard in 2010. A targeted approach is intended to tackle the most polluting ground level sources within narrow streets where wind flow and ventilation is restricted.

2.307 Proposals for new development should consider air quality issues⁸⁸ and, where necessary, undertake detailed assessments of air quality impacts. Assessments should consider potential impacts resulting from traffic generated by the proposed development, and also consider the impact of any existing air quality problems on the future occupants of the scheme and adjacent properties. The council may seek to control the volume and flow of traffic to and from a proposed development to comply with this policy (see also City Plan Part One Policy CP9 Sustainable Transport).

2.308 This policy complements the AQAP by ensuring that all new developments adhere to the NPPF guidance that developments should contribute towards national objectives for pollutants (paragraph 181 of the NPPF) including in or near AQMAs or near sensitive receptors like schools and the Royal Sussex County Hospital, assists in achieving its aim of improving air quality. New development proposals should take account of their impact on local air quality, be consistent with the latest AQAP and minimise increased exposure to existing poor air quality within an AQMA. Improvements and/or mitigation will be sought wherever possible. It is important that cumulative impacts are taken into account including impacts from development beyond the boundary of the City Plan area.

2.309 Where a development includes new residential premises in a known area of poor air quality, remedial measures will be required such as: the provision of passive or hybrid ventilation systems; appropriate amendments to uses and design; alternatives to the provision of, or a set-back in balconies and living quarters at roadside; provision of charging infrastructure for electric vehicles, or passive provision to allow conversion at a later date; and also travel plans to encourage reduced car use. Alterations to the massing and position of buildings close to confined slow moving roads can avoid enclosure that is liable to inhibit emission dispersion. Subject to other amenity considerations, development should be designed so as to increase the distance between bedrooms/living rooms and road traffic emissions. Where it is not practicable to achieve a positive impact on air quality on-site then off-site mitigation or financial contributions will be sought in accordance with CP7 Developer Contributions.

2.310 It is important to ensure that sustainable building measures intended to reduce fuel consumption and carbon dioxide are not detrimental to local air quality; namely oxides of nitrogen, dust, smoke and particulate matter. For example, biomass fuel combustion and combined heat and power systems will not be acceptable in certain areas of the city; in or near AQMA and the Royal Sussex County Hospital as a sensitive receptor due to a need to comply with nitrogen dioxide limits. Developments in or close to an AQMA should prioritise generation of heat and power through means that do not influence air quality and minimise emissions to air from

⁸⁸ Whether or not air quality is relevant to a planning decision will depend on the proposed development and its location (National Planning Policy Guidance) Paragraph: 005 Reference ID: 32-005-20140306

combustion, such as electrification and energy storage. The impact on surrounding occupants from flues on top of buildings also needs to be taken into account especially within areas with existing tall buildings or with potential to deliver taller buildings.

2.311 Noise and vibration, even from a proposed means of ventilation, can potentially have a serious impact on residential amenity, quality of life and biodiversity. Detrimental noise impacts can occur continuously or intermittently and the effects can vary depending on the pitch, tone and frequency. It is not practicable, therefore, to clearly indicate when noise impact studies will be expected. Any noise impact study and noise assessment must be carried out in accordance with current authoritative guidance and British Standards⁸⁹. Indoor environmental quality is dependent on air quality (passive/ mechanical ventilation), thermal comfort and acoustic comfort. These factors are interdependent. When considering the mitigation of noise impact on new development, particularly residential development, the interdependence between acoustics, ventilation and overheating should be carefully considered⁹⁰.

2.312 A number of uses and environments can be particularly sensitive to pollution and/or nuisance. For example, schools, nurseries, hospitals, housing, the South Downs National Park and sites important for nature conservation as well as the Brighton Chalk Block Aquifer.

2.313 Sensitive developments/uses should not be located in proximity to significant pollution and / or nuisance generating uses except where appropriate mitigation can be provided by the developer prior to occupation. In accordance with the 'agent of change principle' set out in the NPPF⁹¹, where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant will be required to provide suitable mitigation prior to occupation. Where appropriate, covenants will be required to remove the right of occupants of new development to complain about disturbance in order to protect existing uses and businesses from the imposition of operating restrictions which could affect their ability to function. Sussex local authorities have developed guidance on noise to provide advice for developers and their consultants when making a planning application⁹².

2.314 Development proposals should avoid excessive and unnecessary lighting, whilst at the same time recognising the important role of lighting in optimising the effective use of land outside daylight hours and addressing crime and antisocial

⁸⁹ For example, BS4142, BS8233:2014, Noise Action Plan Brighton Agglomeration, the Noise Policy Statement for England and any subsequent revisions.

⁹⁰ Further guidance can be found in ProPG: Planning & Noise, Professional Practice Guidance on Planning & Noise - New Residential Development, May 2017 and Acoustic Ventilation and Overheating Residential Design Guide January 2020

⁹¹ National Planning Policy Framework, Paragraph 182.

⁹² Planning Noise Advise Document: Sussex 2020

behaviour (such as floodlighting for the extension of operating hours/crime deterrent). In May 2016 the South Downs National Park was designated as an International Dark Sky Reserve (IDSR). Lighting within the setting of the National Park should therefore take particular care to avoid unnecessary direct or reflected illumination of the sky at night.

DM41 Polluted sites, hazardous substances & land stability

Development proposals must ensure that they do not prejudice health, safety, natural capital⁹³ and the quality of the city's environment. Proposals must be supported by a desktop survey and where appropriate a site investigation⁹⁴ and must demonstrate that all of the following requirements are met:

- a) the development is appropriate for the location taking account of ground conditions, land instability and vulnerability of future and surrounding occupants;**
- b) appropriate measures have been taken, or are provided for, to address hazardous substances, installations and notifiable pipelines;**
- c) the development provides for the suitable re-use of polluted land and buildings and delivers appropriate remediation to safeguard and protect the end users of the site and prevent leaching; and**
- d) provision is made for appropriate measures necessary to protect the environment, future users and surrounding occupants.**

Supporting Text

2.315 Industrial activity, waste disposal, accidental spillages and transportation can cause the potential contamination of land. The presence of even small-scale undertakings can leave land in a contaminated state. Often the causal processes or activities have ceased and are no longer evident.

2.316 The re-use of polluted land and buildings will be encouraged in order to promote the re-use of brownfield sites, reduce the need for the development of greenfield sites, and reduce the threats posed by contamination to health, safety and the environment. It offers a sustainable approach to redevelopment and a means of regenerating specific areas and has the potential for delivering significant environmental benefits. Very few sites are so badly polluted that they cannot be re-used at all, but the contamination and the cost of dealing with it may restrict the

⁹³ Natural capital is defined as the elements of nature that directly or indirectly produce value to people, including ecosystems, species, freshwater, land, minerals, the air and oceans, as well as natural processes and functions.

⁹⁴ A site investigation must be undertaken where: development is proposed on a site which has historically been built upon; where a desk survey determines additional investigation is needed; and, when a site is known to be polluted.