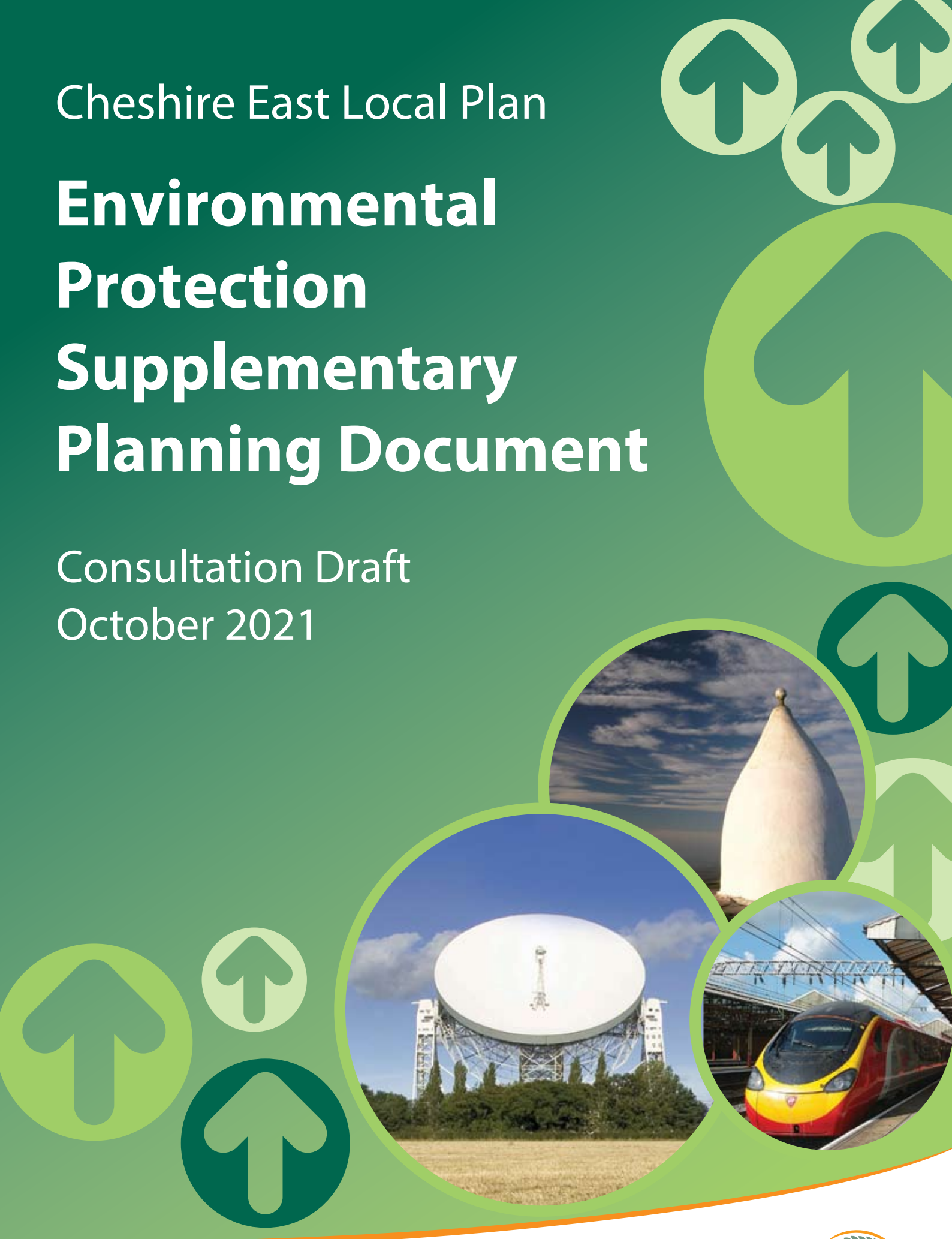


Cheshire East Local Plan

# Environmental Protection Supplementary Planning Document

Consultation Draft  
October 2021





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# 1 Introduction

**1.1** Supplementary Planning Documents (SPDs) add further detail to the policies in the development plan and are used to provide guidance for development on specific sites, or on particular issues. SPDs may be a material planning consideration in planning decisions but are not part of the development plan.

**1.2** This draft Environmental Protection SPD adds detail to existing development plan policies from the Cheshire East Local Plan Strategy (LPS) (adopted July 2017) and ‘saved’ policies from previous local plans, including the Borough of Crewe and Nantwich Local Plan; the Congleton Borough Local Plan; the Macclesfield Borough Local Plan, the Cheshire Minerals Local Plan and the Cheshire Waste Local Plan. The draft SPD also identifies emerging policies that are currently in draft form in the Revised Publication Draft Site Allocations and Development Policies Document (SADPD).

**1.3** The draft SPD provides guidance on the council’s approach to Environmental Protection issues when considering planning applications. The specific areas covered in the draft SPD are:

- Air quality (including dust pollution);
- Contaminated land;
- Noise;
- Light pollution; and
- Odour pollution.

**1.4** All these issues have the potential to impact on the health and wellbeing of Cheshire East’s residents, businesses and visitors. This draft SPD sets out the relevant technical advice aimed at preventing or reducing the impact of proposed developments and protecting public health, wellbeing and amenity across the borough.

**1.5** The guidance and technical advice set out in this draft SPD will enable applicants to make sure that their proposed development meets policy requirements and is designed to minimise the impacts on public health, wellbeing and amenity.

## Consultation

**1.6** Consultation on the draft Environmental Protection SPD will take place between **12PM on Monday the 18th October and midnight on the 29th November 2021**. Comments must be received by the council no later than **midnight on the 29th November 2021**.

**1.7** The consultation documents can be viewed online using the council’s consultation portal<sup>(1)</sup> and at public libraries in Cheshire East. You are advised to check the current libraries opening times on the council’s website<sup>(2)</sup> or telephone the libraries information service on 0300 123 7739.

**1.8** There is no requirement for SPDs to be accompanied by a sustainability appraisal but in “exceptional circumstances”, there may be a requirement for SPDs to be subject to Strategic Environmental Assessment (SEA) where it is considered likely that they may have a significant

<sup>1</sup> <https://cheshireeast-consult.objective.co.uk/portal/planning/spd/>

<sup>2</sup> [https://www.cheshireeast.gov.uk/libraries/libraries\\_opening\\_hours.aspx](https://www.cheshireeast.gov.uk/libraries/libraries_opening_hours.aspx)



effect on the environment that has not already been assessed within the SEA of the Local Plan. A screening assessment has been carried out, which concludes that further such assessment is not necessary.

**1.9** A screening exercise has also been carried out to determine whether the document requires appropriate assessment (under the Habitats Regulations). This also concludes that further such assessment is not necessary. These screening assessments are included in the draft SPD at Appendix A and you can give your views on their findings too.

### Submit your views

**1.10** The consultation portal is our preferred method for submitting responses, but you can also respond by email or in writing.

- Online: using the consultation portal at: <https://cheshireeast-consult.objective.co.uk/portal/planning/spd/>
- Email: to [localplan@cheshireeast.gov.uk](mailto:localplan@cheshireeast.gov.uk)
- Post: to Strategic Planning (Westfields) C/O Municipal Buildings, Earle Street, Crewe CW1 2BJ.

Please make sure that your comments reach us by **midnight on the 29th November 2021**. We are not able to accept anonymous responses and you must provide us with your name and contact details. Your personal information will be processed in accordance with our Strategic Planning Privacy Notice<sup>(3)</sup> and your name and comments will be published for viewing on the consultation portal.

### Next steps

**1.11** Following the consultation, the council will consider all responses before deciding whether any amendments to the draft SPD are needed. A consultation statement will be produced, summarising the responses and any changes to the draft SPD. The consultation statement and final draft SPD will then be published for further comments before the SPD is adopted.

**1.12** Once adopted, the SPD will constitute formal planning guidance and will be taken into account as a material consideration when determining relevant planning applications.

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<sup>3</sup> [https://www.cheshireeast.gov.uk/council\\_and\\_democracy/council\\_information/website\\_information/privacy-notices/spatial-planning-including-neighbourhood-planning-team-privacy-notice.aspx](https://www.cheshireeast.gov.uk/council_and_democracy/council_information/website_information/privacy-notices/spatial-planning-including-neighbourhood-planning-team-privacy-notice.aspx)



## 2 Planning policy framework

**2.1** Planning applications must be determined in accordance with the development plan, unless material considerations indicate otherwise<sup>(4)</sup>. Material considerations can include national planning policy and adopted SPDs, where relevant.

### National policy

#### The National Planning Policy Framework

**2.2** The National Planning Policy Framework (NPPF)<sup>(5)</sup> sets out the government's planning policies for England and how these should be applied.

**2.3** Paragraph 8 sets out three overarching objectives for the planning system. As part of the environmental objective, the NPPF seeks to minimise pollution.

**2.4** Paragraph 174 requires planning policies and decisions to contribute to and enhance the natural and local environment by: *"...(e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and (f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate."*

**2.5** Paragraphs 183-187 consider ground conditions and pollution:

*"183. Planning policies and decisions should ensure that:*

- a. a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation);*
- b. after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and*
- c. adequate site investigation information, prepared by a competent person, is available to inform these assessments.*

*184. Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.*

*185. Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:*

<sup>4</sup> Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990

<sup>5</sup> <https://www.gov.uk/guidance/national-planning-policy-framework>





- a. *mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life [See Explanatory Note to the Noise Policy Statement for England (Department for Environment, Food & Rural Affairs, 2010).];*
- b. *identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and*
- c. *limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.*

*186. Planning policies and decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas. Opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management, and green infrastructure provision and enhancement. So far as possible these opportunities should be considered at the plan-making stage, to ensure a strategic approach and limit the need for issues to be reconsidered when determining individual applications. Planning decisions should ensure that any new development in Air Quality Management Areas and Clean Air Zones is consistent with the local air quality action plan.*

*187. Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. 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 (or 'agent of change') should be required to provide suitable mitigation before the development has been completed.*

*188. The focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities."*

**2.6** With specific reference to minerals, paragraph 210 requires planning policies to "set out criteria or requirements to ensure that permitted and proposed operations do not have unacceptable impacts on the natural and historic environment or human health, taking into account the cumulative effects of individual sites and/or a number of sites in a locality" and "when developing noise limits, recognise that some noisy short term activities, which may otherwise be regarded as unacceptable, are unavoidable to facilitate minerals extraction". Paragraph 211 requires minerals planning authorities to "ensure that any unavoidable noise, dust and particle emissions and any blasting vibrations are controlled, mitigated or removed at source [National planning guidance on minerals sites sets out how these policies should be implemented.], and establish appropriate noise limits for extraction in proximity to noise sensitive properties".



## National Planning Policy for Waste

**2.7** The National Planning Policy for Waste (NPPW)<sup>(6)</sup> sets out detailed waste planning policies.

**2.8** When determining waste planning applications, paragraph 7 requires waste planning authorities to consider the likely impact on the local environment and on amenity against a number of criteria, including protection of water quality, land instability, air emissions (including dust), odours, noise, light, vibration and litter.

## Noise Policy Statement for England

**2.9** Paragraph 185 of the NPPF highlights the need to avoid giving rise to significant adverse impacts on health and the quality of life; and refers to the Explanatory Note to the Noise Policy Statement for England (NPSE)<sup>(7)</sup>.

**2.10** The Explanatory Note sets out various parameters from established toxicology concepts that are currently applied to noise impacts, which are:

- **NOEL** (No Observed Effect Level), which is the level below which no effect can be detected. In simple terms, below this level, there is no detectable effect on health and quality of life due to the noise.
- **LOAEL** (Lowest Observed Adverse Effect Level), which is the level above which adverse effects on health and quality of life can be detected.

**2.11** These concepts were extended by the NPSE to include:

- **SOAEL** (Significant Observed Adverse Effect Level), which is the level above which significant adverse effects on health and quality of life occur.

**2.12** The NPSE goes on to set out three aims, which are:

- *"To avoid significant adverse impacts on health and quality of life from environmental, neighbour and neighbourhood noise within the context of Government policy on sustainable development".*
- *Mitigate and minimise adverse impacts on health and quality of life from environmental, neighbour and neighbourhood noise within the context of Government policy on sustainable development.*
- *Where possible, contribute to the improvement of health and quality of life through the effective management and control of environmental, neighbour and neighbourhood noise within the context of Government policy on sustainable development."*

## National Planning Practice Guidance

**2.13** The government's National Planning Practice Guidance<sup>(8)</sup> also gives detailed guidance on several topics, including:

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6 <https://www.gov.uk/government/publications/national-planning-policy-for-waste>  
7 <https://www.gov.uk/government/publications/noise-policy-statement-for-england>  
8 <https://www.gov.uk/government/collections/planning-practice-guidance>





- Guidance on how planning can take account of the impact of new development on air quality.
- Guiding principles on how planning can deal with land affected by contamination.
- Advice on how to ensure that development is suitable to its ground conditions and how to avoid risks caused by unstable land or subsidence.
- Advice on light pollution and how to consider light within the planning system.
- Guidance on how planning can manage potential noise impacts in new development.

## Local policy

**2.14** Local planning policies are set out in the development plan for the area. The development plan for Cheshire East currently comprises:

- The Cheshire East Local Plan Strategy adopted July 2017;
- Saved policies from the: Borough of Crewe and Nantwich Local Plan 2005; Cheshire Replacement Minerals Local Plan 1999; Cheshire Replacement Waste Local Plan 2007; Congleton Borough Local Plan 2005; and Macclesfield Borough Local Plan 2004; and
- Completed neighbourhood plans.

**2.15** The draft Site Allocations and Development Policies Document was submitted to the Secretary of State on 29 April 2021 under Regulation 22 of the Town and Country Planning (Local Planning) (England) Regulations 2012. It will now be subject to examination by an independent planning inspector.

**2.16** It is anticipated that the SADPD will be adopted and become part of the development plan during 2022. On adoption, its policies will supersede those saved policies from the Borough of Crewe and Nantwich Local Plan 2005, Congleton Borough Local Plan 2005, and Macclesfield Borough Local Plan 2004.

**2.17** A Minerals and Waste Development Plan Document is also being prepared, which will set out planning policies on minerals and waste. Once adopted, these will replace the saved policies from the Cheshire Minerals Local Plan 1999 and the Cheshire Waste Local Plan 2007.

## Local Plan Strategy

**2.18** Within the LPS<sup>(9)</sup>, one of the four Strategic Priorities relates to 'Protecting and enhancing environmental quality'. This will be delivered by a range of measures, including addressing the local causes of water, air, light, noise and all other forms of pollution and the contamination of land.

**2.19** The key strategic policy relevant to Environmental Protection is **Policy SE 12 'Pollution, land contamination and land instability'**. This states:

<sup>9</sup> <https://www.cheshireeast.gov.uk/localplanstrategy>



## Policy SE 12

### Pollution, Land Contamination and Land Instability

1. The council will seek to ensure all development is located and designed so as not to result in a harmful or cumulative impact upon air quality, surface water and groundwater, noise, smell, dust, vibration, soil contamination, light pollution or any other pollution which would unacceptably affect the natural and built environment, or detrimentally affect amenity or cause harm. Developers will be expected to minimise, and mitigate the effects of possible pollution arising from the development itself, or as a result of the development (including additional traffic) during both the construction and the life of the development. Where adequate mitigation cannot be provided, development will not normally be permitted.
2. Development for new housing or other environmentally sensitive development will not normally be permitted where existing air pollution, soil contamination, noise, smell, dust, vibration, light or other pollution levels are unacceptable and there is no reasonable prospect that these can be mitigated against.
3. Development should support improvements to air quality, not contradict the Air Quality Strategy or Air Quality Action Plan and seek to promote sustainable transport policies.
4. Where a proposal may affect or be affected by contamination or land instability (including natural dissolution and/or brine pumping related subsidence), at the planning application stage, developers will be required to provide a report which investigates the extent of the contamination or stability issues and the possible affect it may have on the development and its future users, the natural and built environment. This report should be written in line with best practice guidance.
5. In most cases, development will only be deemed acceptable where it can be demonstrated that any contamination or land instability issues can be appropriately mitigated against and remediated, if necessary.

**2.20** Other strategic policies relevant to Environmental Protection include:

- **Policy SD 1 ‘Sustainable Development in Cheshire East’**, which requires that, where possible, development supports the health, safety, social and cultural well-being of the residents of Cheshire East.
- **Policy SD 2 ‘Sustainable Development Principles’**, which states that all development will be expected to use appropriate design, construction, insulation, layout and orientation to create developments that... minimise waste and pollution.
- **Policy SC 3 ‘Health and well-being’**, which requires screening assessments for all major development proposals, including a review of the possible health impacts.

### Saved policies

**2.21** There are several saved policies relevant to Environmental Protection.



## Borough of Crewe and Nantwich Local Plan 2005

**2.22** Relevant policies in the Borough of Crewe and Nantwich Local Plan<sup>(10)</sup> include:

- **Policy NE.15 ‘Re-use and adaptation of a rural building for a commercial, industrial or recreational use’** only allows for such proposals where they will not harm the local environment through the creation of noise, dust, smoke, fumes, grit, vibration or any form of water, soil or air pollution.
- **Policy NE.17 ‘Pollution control’**, which requires measures to prevent, reduce or minimise pollution. Development proposals will not be permitted where they are likely to increase water or air pollution; increase risks to life or health; permanently increase noise levels unacceptably; or result in an unacceptable noise impact on any proposed noise-sensitive development.
- **Policy NE.21 ‘New development and landfill sites’**, seeks to restrict new development in close proximity to existing or former landfill sites to protect the environment and public health.
- **Policy BE.1 ‘Amenity’**, which protects the amenity of occupiers including through noise, disturbance and odour; and requires proposals not to lead to an increase in air, noise or water pollution that might have an adverse effect of the other use of land.
- **Policy BE.6 ‘Development on potentially contaminated land’** requires potential contamination to be investigated and treated, contained or controlled so as not to expose occupiers to unacceptable risk; lead to contamination of water resources; or contaminate adjoining land. Contamination should usually be treated on site.
- **Policy RT.16 ‘Noise generating sports’** requires proposals for noisy and intrusive recreational activities to be located where the impact on the amenity of the adjacent area and nearby residents can be minimised.

## Congleton Borough Local Plan 2005

**2.23** Relevant policies in the Congleton Borough Local Plan<sup>(11)</sup> include:

- **Policy GR6 ‘Amenity and health’** requires development near sensitive uses not to have an unduly detrimental effect on amenity due to environmental disturbance or pollution.
- **Policy GR7 ‘Amenity and health’** does not allow development that is likely to: contribute to significantly increased air, land, water, light or noise pollution to unacceptable levels; involve significantly greater risk to people’s lives and health; expose people to unacceptable risk; or be a significant source of statutory nuisance, apprehension, danger, or loss of amenity.
- **Policy GR8 ‘Amenity and health’** does not allow for sensitive uses in areas around potential or existing sources of air, land, water or noise pollution if unacceptable damage or nuisance to the new use is likely.
- **Policy GR11 ‘Development involving new roads and other transportation projects’** requires highways and transportation schemes to reduce noise, congestion and atmospheric pollution in residential areas and areas of high pedestrian activity; and to include noise attenuation measures in the vicinity of new road schemes.

10 [https://www.cheshireeast.gov.uk/planning/spatial-planning/saved\\_and\\_other\\_policies/crewe\\_and\\_nantwich\\_local\\_plan/crewe\\_and\\_nantwich\\_local\\_plan.aspx](https://www.cheshireeast.gov.uk/planning/spatial-planning/saved_and_other_policies/crewe_and_nantwich_local_plan/crewe_and_nantwich_local_plan.aspx)

11 [https://www.cheshireeast.gov.uk/planning/spatial-planning/saved\\_and\\_other\\_policies/congleton\\_local\\_plan/congleton\\_local\\_plan.aspx](https://www.cheshireeast.gov.uk/planning/spatial-planning/saved_and_other_policies/congleton_local_plan/congleton_local_plan.aspx)



- **Policy NR6 'Reclamation of land'** is supportive of proposals for the reclamation of contaminated land, subject to other relevant policies of the plan.
- **Policy RC3 'Nuisance sports'** requires proposals for recreational and sporting activities that may adversely affect the amenity of nearby residents to include appropriate noise attenuation measures; and cause minimum detriment to nearby residents.
- **Policy RC13 'Day nurseries'** requires facilities not to be of significant detriment to amenity by virtue of noise and general disturbance; and measures must be taken to minimise noise disturbance.

## Macclesfield Borough Local Plan 2004

**2.24** Relevant policies in the Macclesfield Borough Local Plan<sup>(12)</sup> include:

- **Policy T18 'Restriction on development within NNI zones'** seeks to restrict noise sensitive development in the areas most affected by aircraft noise and requires mitigation measures in other areas affected by aircraft noise.
- **Policy DC3 'Amenity'** requires that development should not significantly injure the amenity of nearby residential properties or sensitive uses due to noise, vibration, smells, fumes, smoke, soot, ash, dust, grit, environmental pollution, hazardous substances and industrial processes.
- **Policy DC13 'Noise'** does not allow noise generating development, which cumulatively would increase the ambient noise level to an unacceptable level.
- **Policy DC14 'Noise'** allows for development where the effects of noise can be mitigated by soundproofing measures.
- **Policy DC33 'Outdoor commercial recreation'** requires that proposals do not result in significant adverse impact upon existing residential amenity; and necessary lighting does not cause undue intrusion or significant adverse impact.
- **Policy DC54 'Restaurants, cafés and hot food takeaways'** requires that these uses do not materially harm the amenities of occupiers of residential property by virtue of noise, disturbance, cooking smells and fumes.
- **Policy DC63 'Contaminated land including landfill gas'** only allows development unless contamination (including landfill gas) is treated, contained or controlled so as not to expose occupiers to unacceptable risk; threaten the structural integrity of buildings; lead to the contamination of water resources; or cause the contamination of adjoining land or allow such contamination to continue.
- **Policy DC64 'Floodlighting'** requires proposals for floodlighting of sporting facilities not to: have a significant adverse impact on the landscape character in terms of the sensitivity of a given area to the introduction of exterior lighting (night time); or have a significant impact on the amenity of residents.

## Cheshire Minerals Local Plan 1999

**2.25** Relevant policies in the Cheshire Minerals Local Plan<sup>(13)</sup> include:

- **Policy 9 'Planning applications'** requires applications to evaluate the direct and indirect effects of a proposal and propose mitigation measures addressing noise levels, dust levels, illumination levels, air-over pressure and peak particle velocity levels.

<sup>12</sup> [https://www.cheshireeast.gov.uk/planning/spatial-planning/saved\\_and\\_other\\_policies/macclesfield\\_local\\_plan/macclesfield\\_local\\_plan.aspx](https://www.cheshireeast.gov.uk/planning/spatial-planning/saved_and_other_policies/macclesfield_local_plan/macclesfield_local_plan.aspx)  
<sup>13</sup> [https://www.cheshireeast.gov.uk/planning/spatial-planning/saved\\_and\\_other\\_policies/cheshire\\_minerals\\_local\\_plan/cheshire\\_minerals\\_local\\_plan.aspx](https://www.cheshireeast.gov.uk/planning/spatial-planning/saved_and_other_policies/cheshire_minerals_local_plan/cheshire_minerals_local_plan.aspx)



- **Policy 12 'Conditions'** highlights that conditions will be attached to planning consents to control noise, dust, illumination and vibration levels; and to ensure pollution control measures.
- **Policy 26 'Noise'** does not permit development where it would give rise to unacceptable levels of noise pollution.
- **Policy 27 'Noise'** seeks to control noise emissions by limited the length of time for engineering works, controlling hours of operation, requiring best practice vehicle and plant silencing and maintenance, requiring noise mitigation measures and setting noise limits.
- **Policy 28 'Dust'** allows development, only where it would minimise dust emission levels by phasing working and restoration, surface and maintain internal haul roads, sheet all mineral bearing lorries, seed screen mounds, use a water bowser or similar to damp down, use wheel cleaning facilities, regular sweep and spray of hard surfaces, limit the area of mineral stripped of soil/overburden ant any time, and monitor dust emissions where appropriate.
- **Policy 38 'Blasting'** only permits blasting where ground vibration is minimised, air over pressure is minimised, blasts are monitored, no secondary blasting occurs and blasting is limited to between 0900 and 1800 hours Mondays to Fridays.

## Cheshire Waste Local Plan 2007

**2.26** Relevant policies in the Cheshire Waste Local Plan<sup>(14)</sup> include:

- **Policy 1 'Sustainable waste management'** expects applications to demonstrate how the development would protect environmental assets.
- **Policy 12 'Impact of development proposals'** requires applications to evaluate the likely direct, indirect and cumulative impacts and set out mitigation measures for issues including air quality, noise levels, odour, dust levels, human health, litter and fly tipping, and illumination levels.
- **Policy 23 'Noise'** does not permit proposals that would give rise to unacceptable noise. Setting noise limits, controlling the hours of operation, requiring noise mitigation measures, use of best practice vehicle and plant silencing and maintenance, and limiting the length of time for engineering works will be used to control noise emissions where appropriate.
- **Policy 24 'Air pollution: Air emissions including dust'** does not permit proposals where the impact of dust would have an unacceptable impact on amenity. Surfacing and maintenance of internal haul roads, regular sweeping and spraying of hard surfaced areas, use of a water bowser or similar to damp down areas, use of wheel cleaning facilities, sheeting of waste-carrying vehicles, seeding of screen mounds, and monitoring of air and dust emissions will be used to control dust emissions where appropriate.
- **Policy 25 'Litter'** does not permit proposals where litter would have an unacceptable impact on amenity. Applications should assess the potential for litter generation and propose mitigation measures.
- **Policy 26: 'Air pollution: Odour'** does not permit proposals where odour would have an unacceptable impact on amenity.

14 [https://www.cheshireeast.gov.uk/planning/spatial-planning/saved\\_and\\_other\\_policies/cheshire\\_waste\\_local\\_plan/cheshire\\_waste\\_local\\_plan.aspx](https://www.cheshireeast.gov.uk/planning/spatial-planning/saved_and_other_policies/cheshire_waste_local_plan/cheshire_waste_local_plan.aspx)



## Neighbourhood plans

**2.27** There are 36 completed neighbourhood plans<sup>(15)</sup> in Cheshire East and some of these contain locally-specific requirements in relation to environmental protection. These form part of the development plan and will be used alongside other Local Plan policies to determine planning applications.

## Draft Site Allocations and Development Policies Document

**2.28** The draft SADPD<sup>(16)</sup> also includes a number of policies that, once adopted, will be of relevance to Environmental Protection.

- Draft **Policy ENV 9 'Wind energy'** expects sufficient distance to be maintained between the proposal and sensitive receptors to protect amenity, particularly with respect to noise and visual impacts.
- Draft **Policy ENV 12 'Air quality'** requires an air quality assessment where proposals are likely to have an impact on local air quality. Permission will not be granted where the construction or operational characteristics of the development must not cause harm to air quality (including cumulatively) unless suitable measures are adopted to mitigate the impact.
- Draft **Policy ENV 13 'Aircraft noise'** restricts sensitive developments in the areas subject to the highest levels of aircraft noise; and requires mitigation to achieve satisfactory internal ambient noise levels in other areas subject to aircraft noise. The policy also sets detailed criteria to consider in relation to a range of different development types.
- Draft **Policy ENV 14 'Light pollution'** requires light spillage and glare to be minimised to an acceptable level; and there to be no significant adverse effect individually or cumulatively on residential amenity; pedestrians, cyclists, and other road users; specialist facilities; and individuals and groups.
- Draft **Policy ENV 15 'New development and existing uses'** restricts new development in locations where it could be significantly adversely affected by the operation of an existing business or facility unless such impacts can be avoided through mitigation.
- Draft policies **RUR 1 'New buildings for agriculture and forestry'**, **RUR 2 'Farm diversification'**, **RUR 7 'Equestrian development outside of settlement boundaries'**, **RUR 8 'Visitor accommodation outside of settlement boundaries'**, **RUR 9 'Caravan and camping sites'**, and **RUR 10 'Employment development in the open countryside'** require that proposals do not unacceptably affect the amenity and character of the surrounding area or landscape (including visual impacts, noise, odour, design and appearance), either their own or cumulatively with other developments.
- Draft policies **RUR 6 'Outdoor sport, leisure and recreation outside of settlement boundaries'** and **RUR 7 'Equestrian development outside of settlement boundaries'** allow for artificial lighting only where strictly necessary, and highlight that its design and operation may be limited by condition to minimise light pollution in the open countryside.
- Draft **Policy HOU 10 'Amenity'** does not allow development proposals that would unacceptably harm the amenities of residential properties or sensitive uses due to environmental disturbance or pollution.

<sup>15</sup> <https://www.cheshireeast.gov.uk/planning/neighbourhood-plans/completed-neighbourhood-plans.aspx>

<sup>16</sup> <https://www.cheshireeast.gov.uk/sadpd>





- Draft **Policy RET 5 'Restaurants, cafés, pubs and hot food takeaways'** requires such uses to have no adverse effect, either individually or cumulatively on the amenities of residential occupiers. Conditions will be imposed relating to noise, odour and fumes.
- Draft **Policy RET 9 'Environmental improvements, public realm and design in town centres'** seeks to promote the creative use of lighting to add drama to the night time townscape (such as by illuminating landmark buildings) whilst avoiding excessive light glow.
- Draft **Policy REC 4 'Day nurseries'** requires such uses not to unacceptably harm the amenity of local residents by virtue of noise.



## 3 Making an application

**3.1** This SPD adds further detail to the policies in the development plan and provides guidance on Environmental Protection matters. Whilst it does not form part of the development plan, its guidance will be a material consideration in the determination of planning applications, where relevant.

### Pre-application advice

**3.2** The council offers a pre-application advice service<sup>(17)</sup> and encourages potential applicants to discuss their scheme with planning officers prior to submission of an application. This is particularly important for large scale developments that will have a major impact on the surrounding area. This service is designed to assist applicants' understanding of planning issues and requirements to speed up the development process. This can help minimise subsequent planning application costs and avoid abortive applications.

**3.3** In addition, the council's Environmental Protection Team<sup>(18)</sup> will also provide advice regarding the methodology for undertaking relevant Environmental Impact Assessments. However, it should be noted that there will be a charge for reviewing any draft reports prior to submission as part of a planning application.

### Environmental Impact Assessments

**3.4** In accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2017<sup>(19)</sup> it is a requirement that certain planning applications must include an Environmental Impact Assessment (EIA). An EIA is a procedure which serves to provide information about the likely effects of a proposed project on the environment, so as to inform the decision making process as to whether the development should be allowed and if so, on what terms. Where an EIA is required, it should assess each relevant aspect relating to Environmental Protection in a comprehensive manner, as set out in this SPD.

**3.5** All reporting requirements set out in this SPD should be submitted with the planning application, as the council will not be using pre-commencement conditions, in line with national policy.

<sup>17</sup> [https://www.cheshireeast.gov.uk/planning/view\\_a\\_planning\\_application/pre-application\\_advice/pre-application\\_advice.aspx](https://www.cheshireeast.gov.uk/planning/view_a_planning_application/pre-application_advice/pre-application_advice.aspx)

<sup>18</sup> Email [environmentalprotection2@cheshireeast.gov.uk](mailto:environmentalprotection2@cheshireeast.gov.uk)

<sup>19</sup> <https://www.legislation.gov.uk/uksi/2017/571/contents/made>



## 4 Air quality

**4.1** Air quality is important to public health and wellbeing and, more recently, has been linked to a range of health impacts. This has led to wide ranging research being undertaken in the health impacts of pollutants, resulting in both national and international guidance and advice being issued to protect public health.

**4.2** In 1997, the government adopted the first UK Air Quality Strategy (AQS), which set out how the government aimed to deal with local air quality and the impact of this on health and wellbeing. Further revision of the AQS brought about the process of Local Air Quality Management (LAQM), which is a process requiring all local authorities to regularly review and assess air quality within their area against the air quality objectives set out the Air Quality Standards Regulations 2010<sup>(20)</sup>. The pollutants of concern and relevant objectives are set out in Table 4.1 'Air quality objectives'.

### Local air quality management

**4.3** The purpose of reviewing air quality against the air quality objectives is to determine if any areas within the borough are either exceeding or likely to exceed any of the air quality objectives. If any such areas are identified, an Air Quality Management Area (AQMA) must be declared and an action plan drawn up, setting out how the local authority proposes to improve the air quality within that area.

**4.4** In Cheshire East, there are currently a number of small areas which have been declared as AQMAs<sup>(21)</sup>. The primary source of pollution in these areas is due to vehicle emissions, as a result of either standing/slow moving traffic or high volumes of traffic where there are sensitive receptors (such as houses) fronting directly on to the road. The council must make sure that development in and around any of the AQMAs will not have an adverse impact upon the air quality within those areas.

### Air quality objectives

**4.5** The Air Quality Standards Regulations 2010<sup>(20)</sup> set out the air quality objectives for seven pollutants. These objectives are based on protecting public health and wellbeing.

**4.6** The objectives of concern within Cheshire East are those that relate to nitrogen dioxide and particulate matter. All of the AQMAs declared to date relate to concentrations of nitrogen dioxide.

<sup>20</sup> <https://www.legislation.gov.uk/uksi/2010/1001/contents/made>

<sup>21</sup> [https://www.cheshireeast.gov.uk/environment/environmental\\_health/local\\_air\\_quality/aqma\\_area\\_maps.aspx](https://www.cheshireeast.gov.uk/environment/environmental_health/local_air_quality/aqma_area_maps.aspx)



Table 4.1 Air quality objectives

Substance	Air quality objective levels	Date to be achieved before
Nitrogen dioxide (NO <sub>2</sub> )	200µm <sup>-3</sup> hourly mean, not to be exceeded more than 18 times per year	2006
	40µm <sup>-3</sup> as an annual average	2006
Particulate matter (PM <sub>10</sub> )	50µm <sup>-3</sup> as a 24-hour mean, not to be exceeded more than 35 times per year	2005
	40µm <sup>-3</sup> as an annual mean	2005
Particulate matter (PM <sub>2.5</sub> )	25µm <sup>-3</sup> as an annual mean	2020
Benzene	16.25µm <sup>-3</sup> as a running annual mean	2004
1,3 - Butadiene	2.25µm <sup>-3</sup> as a running annual mean	2004
Carbon monoxide (CO)	11.6µm <sup>-3</sup> as a running 8-hour mean	2004
Lead	0.5µm <sup>-3</sup> as an annual average	2005
	0.25µm <sup>-3</sup> as an annual average	2009
Sulphur dioxide (SO <sub>2</sub> )	266µm <sup>-3</sup> as a 15-minute mean, not to be exceeded more than 35 times per year	2006
	350µm <sup>-3</sup> as an hourly mean, not to be exceeded more than 24 times per year	2005
	125µm <sup>-3</sup> as a 24-hour mean, not to be exceeded more than 3 times per year	2005

## Air quality assessments

**4.7** An air quality assessment should predict any potential impacts on local air quality from a proposed development. The assessment should consider any potential impacts on existing AQMAs and those areas that are close to the air quality objective in order to prevent the declaration of further AQMAs. The assessment must take into account all emission sources and compare the current air quality with future levels both with and without the proposed development.

### When is an air quality assessment required?

**4.8** An air quality assessment will be required where a proposed development has the potential to adversely impact air quality. This is particularly important when the development is either within or adjacent to an existing AQMA, or within an area where the impact on air quality may result in the declaration of a new AQMA. The criteria for determining if there will be an impact on air quality will be based on both the direct impact of the proposed development and the effect this will have on surrounding traffic flows and volumes.



**4.9** Where relevant, a dust impact assessment should also be submitted as part of, or in addition to the air quality assessment. In certain instances, the council may also ask for an assessment of bioaerosols where this is a relevant consideration.

### **The assessment process**

**4.10** This SPD does not set out a prescribed method or form for undertaking an assessment, which will be required if the proposed development is likely to adversely impact on local air quality. Therefore, it is important that the methodology and data sets are agreed in advance with the council's Air Quality Team. However, there is general guidance regarding estimating emissions and modelling in the Local Air Quality Management: Technical Guidance (TG16)<sup>(22)</sup>.

**4.11** The purpose of the assessment is to determine the likely changes to air quality as a result of the proposed development. The aim of the assessment will be to compare the existing situation without the proposed development, and the situation with the proposed development. This can be split in to 3 basics steps:

1. Assess the current air quality within the area (baseline).
2. Predict the future air quality without the proposed development (future baseline).
3. Predict the future air quality with the proposed development in place (future with development).

**4.12** The assessment should also take account of potential new sensitive receptors, including those with planning permission or allocated sites.

**4.13** Current air quality data within Cheshire East is available on the council's website<sup>(23)</sup> and the national background maps<sup>(24)</sup> will also be able to assist with this part of the process. However, it is important that prior to undertaking an assessment, an agreement is sought from the council's Air Quality Team<sup>(25)</sup> regarding the scope, data and methodology of the assessment to be undertaken.

### **Sensitive receptors**

**4.14** All assessments should consider air quality concentrations. Paragraph 1.51 of TG16 states that exceedances of the objectives should be assessed in relation to "the quality of the air at locations which are situated outside of buildings or other natural or man-made structures, above or below ground, and where members of public are regularly present". Further examples of where the air quality objectives should apply can be found in TG16.

### **Assessing significance**

**4.15** The primary requirement of the air quality assessment is to determine the significance in terms of change to the air quality, when the proposed development is completed. Environmental Protection UK provides guidance regarding assessing significance<sup>(26)</sup>, and

22 <https://laqm.defra.gov.uk/documents/LAQM-TG16-April-21-v1.pdf>

23 [https://www.cheshireeast.gov.uk/environment/environmental\\_health/local\\_air\\_quality/what\\_is\\_pollution\\_like\\_near\\_me/air-pollution-monitoring.aspx](https://www.cheshireeast.gov.uk/environment/environmental_health/local_air_quality/what_is_pollution_like_near_me/air-pollution-monitoring.aspx)

24 <https://uk-air.defra.gov.uk/data/laqm-background-home>

25 Email [airquality@cheshireeast.gov.uk](mailto:airquality@cheshireeast.gov.uk)

26 [https://www.environmental-protection.org.uk/wp-content/uploads/2013/07/air-quality-planning-guidance\\_Jan17.pdf](https://www.environmental-protection.org.uk/wp-content/uploads/2013/07/air-quality-planning-guidance_Jan17.pdf)



the framework used for assessing significance has been adopted by the council. A copy of the framework is set out in Table 4.2 'Environment Protection UK impact descriptors for individual receptors'.

Table 4.2 Environment Protection UK impact descriptors for individual receptors

Long term average concentration at receptor in assessment year	% change in concentration relative to Air Quality Assessment Level (AQAL)			
	1	2-5	6-10	>10
75% or less of AQAL	Negligible	Negligible	Slight	Moderate
76-94% of AQAL	Negligible	Slight	Moderate	Moderate
95-102% of AQAL	Slight	Moderate	Moderate	Substantial
103-109% of AQAL	Moderate	Moderate	Substantial	Substantial
110% or more of AQAL	Moderate	Substantial	Substantial	Substantial

### Explanation

1. AQAL = Air Quality Assessment Level, which may be an air quality objective, EU limit or target value, or an Environment Agency 'Environment Assessment Level (EAL)'.
2. The Table is intended to be used by rounding the change in percentage pollutant concentration to whole numbers, which then makes it clearer which cell the impact falls within. The use is encouraged to treat the numbers with recognition of their likely accuracy and not assume a false level of precision. Changes of 0%, i.e. less than 0.5%, will be described as Negligible.
3. The Table is only designed to be used with annual mean concentrations.
4. Descriptors for individual receptors only; the overall significance is determined using professional judgement. For example, a 'moderate' adverse impact at one receptor may not mean that the overall impact has a significant effect. Other factors need to be considered.
5. When defining the concentration as a percentage of the AQAL, use the 'without scheme' concentration where there is a decrease in pollutant concentration and the 'with scheme' concentration for an increase.
6. The total concentration categories reflect the degree of potential harm by reference to the AQAL value. At exposure less than 75% of this value, i.e. well below, the degree of harm is likely to be small. As the exposure approaches and exceeds the AQAL, the degree of harm increases. This change naturally becomes more important when the result is an exposure that is approximately equal to, or greater than the AQAL.
7. It is unwise to ascribe too much accuracy to incremental changes or background concentrations, and this is especially important when total concentrations are close to the AQAL. For a given year in the future, it is impossible to define the new total concentration without recognising the inherent uncertainty, which is why there is a category that has a range around the AQAL, rather than being exactly equal to it.





## Cumulative impacts

**4.16** The cumulative impact of a number of small developments in an area could lead to a gradual deterioration of air quality. This could comprise several impacts that are individually described as slight, but when added together could have a significant impact on air quality. Therefore, all assessments must take into account the cumulative impact of all proposed applications within the local area and propose suitable mitigation to offset the impact.

**4.17** An example would be if a number of small developments contribute to a significant increase in traffic levels, in an area that already has an air quality problem. Proposed mitigation could be that each development is required to provide a financial contribution to implement highway improvements or to assist with other actions within the council's Air Quality Action Plan. The study of the cumulative impact of additional development must be agreed as part of the scoping report.

## Planning conditions and mitigation

**4.18** Based on the results and conclusions of the air quality assessment, mitigation measures may be recommended to offset any predicted impacts of the proposed development. As far as possible, mitigation measures should be embedded into the design of the scheme and the air quality assessment should inform the scheme design, rather than being completed afterwards. Some mitigation measures (such as mechanical ventilation) can be large, noisy and visually imposing, so should be included in the scheme design from the outset so that all impacts can be assessed.

**4.19** There are a range of mitigation measures that can be used and whilst the list below provides a number of examples, this is not exhaustive.

- The design of the development can help to mitigate against exposure to existing air quality levels. This could include the location of mechanical ventilation, habitable rooms and openable windows to reduce exposure to vehicle emissions.
- The installation of electric vehicle charging points to encourage the uptake and use of ultra-low emissions vehicles instead of combustion engine models.
- Developers to prepare a travel plan or travel information packs to highlight alternative means of transport, such as public transport, location of electric vehicle charging points and car sharing incentives.
- The provision of cycling and walking facilities.
- Traffic management or contributions to highway infrastructure, both new and amended.
- Green infrastructure; plants and trees may provide an aesthetically pleasing aspect to a scheme and may also be used to provide a barrier from a pollutant source such as a trafficked road.
- Ultra-low NO<sub>x</sub> (nitrogen oxides) emission boilers. On developments in built up areas, these boilers help to prevent new "hotspots" of high NO<sub>x</sub> emissions.
- Section 106 Agreements (Town and Country Planning Act 1990) to secure mitigation, where appropriate, to make the scheme environmentally acceptable.
- The application of damage costs as set out in Air quality appraisal: damage cost guidance<sup>(27)</sup>. Damage costs are the costs to society (mainly health) per tonne of

27 <https://www.gov.uk/government/publications/assess-the-impact-of-air-quality>



pollutant emitted. They provide an easy reckoning of the monetised value of changes in pollution.

- Dust management plans and monitoring regimes.

## Air quality during the construction phase

**4.20** The impact of the construction phase of any development can have a significant impact on local air quality via dust, access roads, roads works and closures. Developers and contractors should follow the guidance set out by the Institute of Air Quality Management when drafting construction plans and mitigation measures to minimise air pollution. Therefore, as part of the management of all developments, best practicable means must be used at all times and for specific emissions this could include but not be limited to the following.

- During dry weather all access roads and piles of waste material, which are likely to give rise to emissions of dust, shall be damped down and/or covered to prevent wind whipping.
- Any mobile crushing or screening plant used on site shall be subject to a Permit under the Environmental Permitting (England and Wales) Regulations 2016<sup>(28)</sup> and shall operate in accordance with all conditions imposed by the issuing authority. This shall include the requirement for the use of water sprays to be in operation at all times during crushing and screening operations.
- The re-routing of traffic should be done so as not to impact on any AQMAs.
- All diesel or oil fired plant must be located away from any sensitive receptors.
- Burning of material is not an appropriate method of disposal of waste material and any such material should be removed from the site along with other waste.
- Any additional actions required to mitigate dust emissions identified during ongoing development activities.
- For non-road mobile machinery, renewable, mains or battery powered plant items should be used where possible.

**4.21** All sites that are at medium or high risk of particulate emissions should carry out monitoring and guidance on the assessment of dust from sites is contained in the Institute of Air Quality Management's Guidance on the Assessment of Dust from Demolition and Construction<sup>(29)</sup>.

## Heating appliances

### Biomass boilers

**4.22** Biomass boilers are seen as a method to reduce emissions of greenhouse gas and are regarded as generally more environmentally friendly. However, biomass burning systems still emit a number of pollutants including nitrogen dioxide and particulate matter and whilst the level of emissions maybe less than coal or oil, they do produce more pollutants than gas fired systems. This was confirmed in the governments Clean Air Strategy 2019<sup>(30)</sup>, which states that:

*'This increase in burning solid fuels in our homes is having an impact on our air quality and now makes up the single largest contributor to our national PM emissions at 38%.'*

28 <https://www.legislation.gov.uk/uksi/2016/1154/contents/made>

29 <https://iaqm.co.uk/text/guidance/construction-dust-2014.pdf>

30 [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/770715/clean-air-strategy-2019.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/770715/clean-air-strategy-2019.pdf)



**4.23** Therefore, where a proposed development includes either any large biomass heating system or includes domestic wood burners or open fires, the council will require an air quality assessment to determine the impact on air quality when compared to similar gas fired systems. In addition, the council may require that the only systems to be permitted will be those that are proved to be cleaner and have reduced emissions.

**4.24** Further information relating to biomass and air quality can be found on the Environmental Protection UK website<sup>(31)</sup>.

### **Combined Heat and Power Systems**

**4.25** Emissions from Combined Heat and Power (CHP) systems must be managed to ensure potential air quality impacts are controlled. Management of CHP systems will include system and fuel standards, abatement equipment, regulatory controls and planning controls to restrict where appliances can be installed and the effect they have on the local environment.

**4.26** As is the case with all combustion plant, the air quality assessment of planning applications containing CHP systems should follow a risk based approach based upon factors such as:

- The location of a CHP system, i.e. is it in or close to an area of poor air quality;
- The type of CHP system proposed and the fuel it will use;
- The likely emission standard of the CHP system; and
- Whether the CHP system is substituting for a conventional boiler, and what the difference in emissions between the old boiler and new CHP system is likely to be.

**4.27** Further guidance is available for Institute of Air Quality Management's Combined Heat and Power Guidance for Local Authorities<sup>(32)</sup>.

<sup>31</sup> <https://www.environmental-protection.org.uk/wp-content/uploads/2016/03/Biomass-and-Air-Quality-Information-for-Developers-2017.pdf>  
<sup>32</sup> [http://www.iaqm.co.uk/text/guidance/epuk/chp\\_guidance.pdf](http://www.iaqm.co.uk/text/guidance/epuk/chp_guidance.pdf)



## 5 Contaminated land

**5.1** All land has the potential to be contaminated. Much of today's land contamination originates from polluting industrial processes from the 19<sup>th</sup> and 20<sup>th</sup> centuries. It can also arise from uncontrolled filling or raising of land, as well as more innocuous activities such as agricultural use, disposing of hearth ash in gardens or fuel/oil spillages. Contamination can also be caused by naturally occurring sources such as radon gas from underlying rock or ground gases from peat deposits.

**5.2** In the UK, contaminated land is identified and managed by two different regulatory frameworks, these being Part 2A of the Environmental Protection Act 1990<sup>(33)</sup> and the planning regime. It is widely acknowledged that remediation via the planning regime is the government's preferred option.

**5.3** Part 2A of the Environmental Protection Act 1990 was intended to identify land which is so contaminated that in its current condition it poses a significant possibility of significant harm to the health of persons living in or using the land or any other environmental receptors. In this situation the local authority has to ensure that the land condition is addressed to control any unacceptable risk. Cheshire East Council's approach to Part 2A is outlined in the Cheshire East Council Contaminated Land Strategy<sup>(34)</sup>.

**5.4** The second regulatory regime is the planning system. In this case the developer, as part of the planning and redevelopment process, must address any land condition matters through investigation, risk assessment and remediation where required. In practice, the vast majority of contaminated sites are cleaned up routinely via this route, with the local planning authority ensuring that developers produce safe new development. Cheshire East Council has a Developers' Guide<sup>(35)</sup> to provide advice on this process.

### What is Contaminated Land?

**5.5** The statutory definition of contaminated land<sup>(36)</sup> is as follows:

*'...any land which appears to the local authority in whose area it is situated to be in such a condition, by reason of substances in, on or under the land, that:  
Significant harm is being caused or there is a significant possibility of such harm being caused;  
or  
Significant pollution of controlled waters is being caused, or there is a significant possibility of such pollution being caused'*

**5.6** Where a local authority is satisfied that one or both of the circumstances detailed above is being met then it must act in accordance with guidance issued by the Secretary of State. How Cheshire East Council carries out its statutory contaminated land duties is set out in its Contaminated Land Strategy.

**5.7** Part 2A of the Environmental Protection Act 1990 was introduced specifically to address the historical legacy of land contamination, whereas the planning system aims to control development and land use in the future. Therefore, assessing risks in relation to the future

33 <https://www.legislation.gov.uk/ukpga/1990/43/contents>

34 [https://www.cheshireeast.gov.uk/environment/environmental\\_health/contaminated\\_land/contaminated\\_land.aspx](https://www.cheshireeast.gov.uk/environment/environmental_health/contaminated_land/contaminated_land.aspx)

35 [https://www.cheshireeast.gov.uk/environment/environmental\\_health/contaminated\\_land/development\\_and\\_contamination.aspx](https://www.cheshireeast.gov.uk/environment/environmental_health/contaminated_land/development_and_contamination.aspx)

36 Environmental Protection Act 1990, Part 2A, Section 78(2)



use of any land is primarily a task for the planning system. However, applicants/developers should always take into account Part 2A, because a change in use may cause the land to fall within the statutory definition of contaminated land by creating a contaminant linkage.

**5.8** Whether being considered under the planning regime or Part 2A of the Environmental Protection Act 1990, the principle of contaminated land risk assessment underpins all assessment. This is based upon the Contaminant (source) - Pathway - Receptor model. All three parts of the chain must be present to create what is known as a contaminant linkage. If a linkage is identified it indicates that there is a potential for a contaminated land risk to be present at the site and this must be assessed.

Figure 5.1 Contaminant linkage



## Historical Land Use

**5.9** The history of a site or area is often the best guide to whether a site may be at risk of contamination. The borough of Cheshire East is a mix of urban settlements and rural areas, both with historical industrial heritage. As such there is always the potential for contaminated land to be present. The council's Contaminated Land Strategy provides an overview of the industrial history of Cheshire East.

## Roles and Responsibilities

**5.10** Planning legislation and guidance places the responsibility on developers and/or landowners to secure a safe development with respect to contamination. The council's duty is to ensure that owners and developers carry out the necessary investigations and formulate proposals for dealing with any contamination in a responsible and effective manner. According to the NPPF the standard of remediation to be achieved, as a minimum, should be enough to ensure that the land is not capable of being determined as contaminated land under Part 2A of the Environmental Protection Act 1990. This is the removal of unacceptable risk, making the site suitable for its new use.

**5.11** Where a development is proposed, it is the responsibility of the developer to ensure that issues of land contamination are appropriately considered, that remediation takes place (where necessary) and that the land is safe and 'suitable for use' i.e. the site is cleaned up to a level which is appropriate for the proposed end use. Furthermore, it is the developer's responsibility to ensure that the investigation and remediation of land contamination is carried out by a competent person with a recognised relevant qualification and sufficient experience in contaminated land i.e. an environmental consultant.

**5.12** The local planning authority has a duty to take account of all material planning considerations, including potential contamination, when considering an application. Within the planning regime, contaminated land is often referred to as "land affected by contamination". When considering development on land affected by contamination, the principal objective of the local planning authority is to ensure that any unacceptable risks to human health, property



and/or the wider environment are identified so that appropriate action can be considered and then taken to address those risks. In achieving this objective, the local planning authority should assist in providing the necessary confidence to owners and occupiers of the land after development, regarding the condition and the ranking of the land in relation to relevant environmental protection regimes, such as Part 2A of the Environmental Protection Act 1990.

**5.13** The Environment Agency is a statutory consultee for many planning applications where development is proposed on land affected by contamination. The Environment Agency will consider the impacts on groundwater and surface waters, legally termed controlled waters, and the developer will need to ensure that any concerns of the Environment Agency are satisfied prior to development when these receptors are at risk.

## Contaminated land and planning

**5.14** It is the role of the local planning authority to plan for land uses that are appropriate in the light of all the relevant circumstances, including known or suspected contamination, and to determine applications, including applying and enforcing any necessary conditions. Such conditions may require that land is remediated in the course of development to an appropriate standard, taking account of its intended use, and that, if necessary, it is properly maintained thereafter.

### Pre application discussions

**5.15** Where practicable and applicable, proposers of development on land affected by contamination should arrange pre-application discussions with the local planning authority and other regulators, including the council's Environmental Protection and Building Control departments, any other relevant council specialists and the Environment Agency (where pollution of controlled waters and the waste management implications of land contamination are likely to be issues).

**5.16** This is particularly pertinent as the local planning authority must seek written agreement from the applicants before imposing pre-commencement conditions on a planning permission. In addition, the local planning authority must notify the applicant in writing of its intention to impose a pre-commencement condition<sup>(37)</sup>.

### Completing the "Existing Use" section of the planning application form

**5.17** In applying for planning permission applicants have to answer questions regarding contaminated land. Typically there is a lack of understanding as to what type of development is vulnerable to contamination, if present. The following can be considered to be vulnerable end uses: all residential developments, allotments, schools, children's nurseries, playing areas and parks. If the development proposed is any of these uses then the answer to the question: "a proposed use that would be particularly vulnerable to the presence of contamination" is always Yes.

37 Town and Country Planning Act 1990 s100ZA





Figure 5.2 Good example of the "existing use" section from a residential planning application

**6. Existing Use**

Vacant factory building

Is the site currently vacant? ☒ Yes ☐ No

If Yes, please describe the last use of the site

Metal Fabrication

When did this use end (if known)? DD/MM/YYYY

Does the proposal involve any of the following? If Yes, you will need to submit an appropriate contamination assessment with your application.

Land which is known to be contaminated ☒ Yes ☐ No

Land where contamination is suspected for all or part of the site ☒ Yes ☐ No

A proposed use that would be particularly vulnerable to the presence of contamination ☒ Yes ☐ No

## Determining planning applications including pre-commencement

**5.18** If the information submitted with an application is such that the council cannot be satisfied that the necessary works are viable or practicable through a conditional planning permission, then the application may be refused to avoid the applicant being issued with an untenable planning permission. The amount of information we would expect to see submitted in support of any planning application is outlined in more detail within our Developers' Guide<sup>(35)</sup>.

**5.19** With regards to the agreement of pre-commencement conditions, if there is no agreement to such conditions and insufficient information is provided to support the application, then the application may be refused.

## Planning conditions

**5.20** The local planning authority will generally use a series of staged conditions that aim to:

- Provide for preliminary risk assessment and conceptual model investigation and characterisation of the site to confirm the nature and extent of contamination and validate the conceptual model to allow more refined risk assessment and appraisal of remedial options (see 'Site investigations and risk assessments').
- Propose and receive approval for a remediation scheme that ensures the removal of unacceptable risks to make the site suitable for use.
- Submit and receive approval for a validation report that demonstrates the effectiveness of the remediation carried out.

**5.21** It is important to emphasise that the lack of a condition requiring investigation into contamination does not imply that a site is not contaminated. The Contaminated Land Team will assess the likelihood of risk based upon the known history of a site. It remains the responsibility of a developer or landowner to satisfy themselves over whether a site may or may not have been contaminated in the past. Despite this, applicants are reminded that they

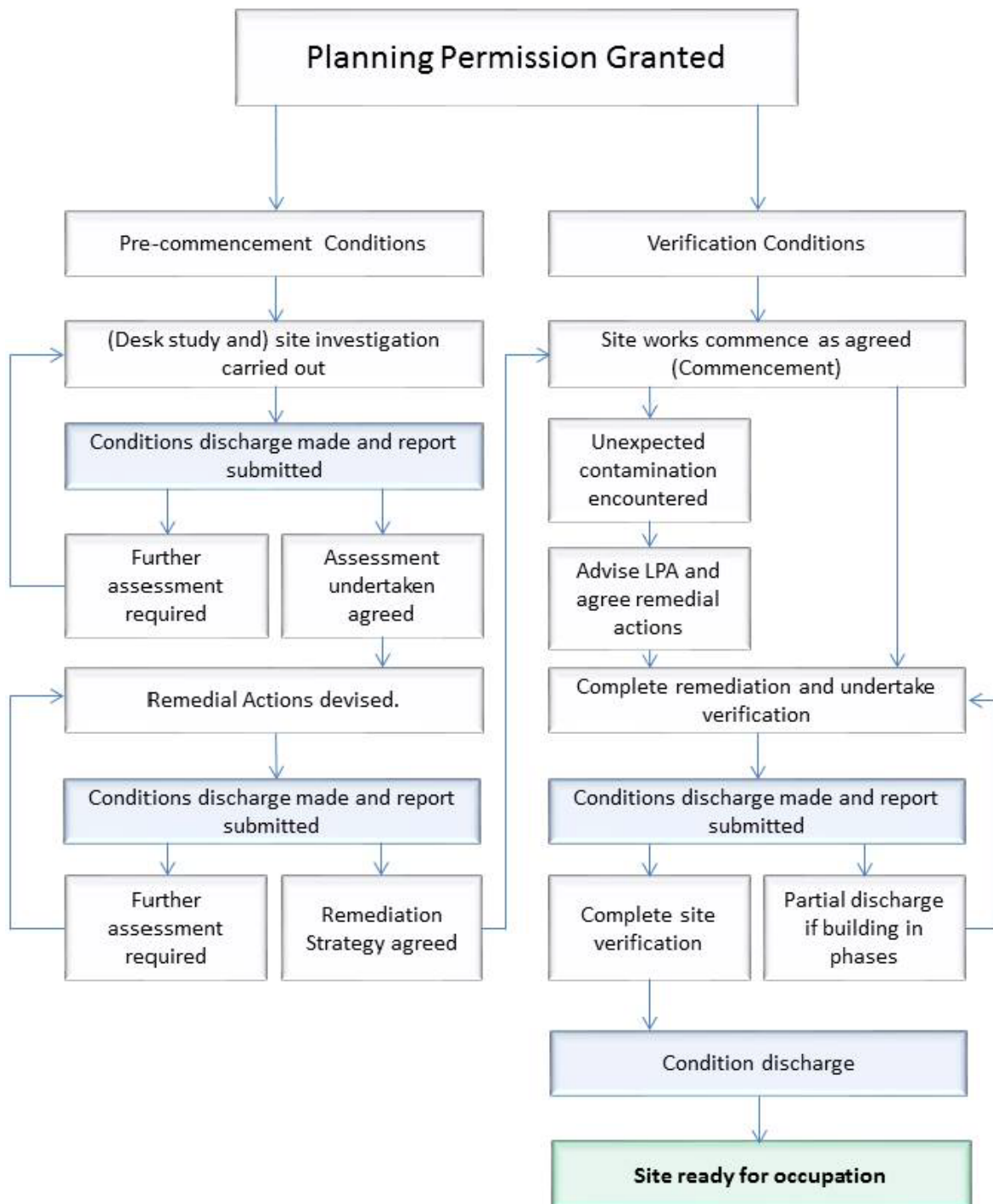


have a duty in accordance Part 2A of the Environmental Protection Act 1990, to immediately inform the local planning authority if any unforeseen contamination is encountered at any point during the development.

## Discharge of conditions

**5.22** Having secured planning permission, the developer must adhere to the conditions on that permission and a guide to doing this is provided in Figure 5.3 'Process of complying with a contaminated land condition'.

Figure 5.3 Process of complying with a contaminated land condition





**5.23** If there are pre-commencement conditions then these must be satisfied before any commencement of work on site. If works have started on site without satisfying the contaminated land assessment aspect (i.e. pre-commencement) and agreeing any necessary remedial works then the development will be breaching planning conditions and it may be very difficult or impossible to investigate or remediate contamination as a result.

**5.24** Furthermore, the prior to occupation aspect of the condition, usually the verification of any remedial methods, should be satisfied prior to occupation of the development. Again this would be a breach of planning condition and would potentially leave the site for consideration under Part 2A. Besides the potential risks, including financial, to any purchasers this could be a reputational matter for the developer.

**5.25** Guidance on how to apply to discharge planning conditions can be viewed on the council's website<sup>(38)</sup>. As contaminated land planning conditions are typically divided into sections, there may be more than one discharge application required to achieve final planning discharge.

### Site investigations and risk assessments

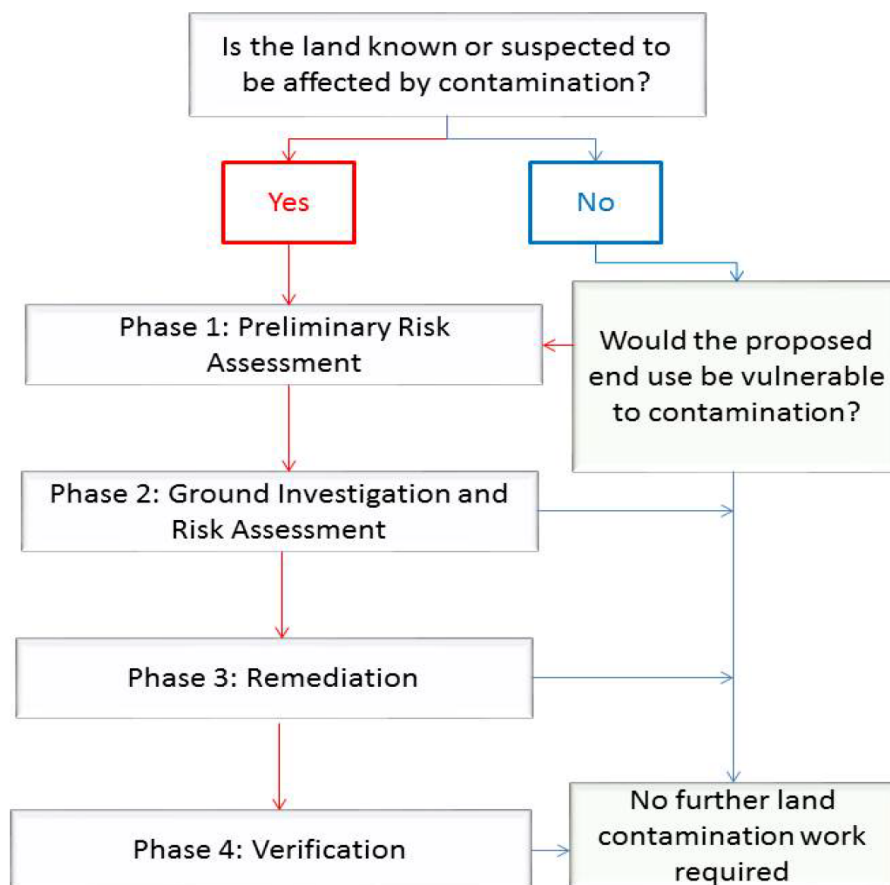
**5.26** The council's Developers' Guide<sup>(35)</sup> provides more detail on the requirements of contaminated land information and what to submit to support a planning application. Reference to appropriate technical guidance is also included within the guide.

**5.27** Figure 5.4 'Phased approach to assess contaminated land' summarises the phased approach required to assess contaminated land in the planning regime. The following sections provide more detail on each phase.

38 [https://www.cheshireeast.gov.uk/planning/view\\_a\\_planning\\_application/making\\_a\\_planning\\_application/conditions\\_of\\_planning\\_consent.aspx](https://www.cheshireeast.gov.uk/planning/view_a_planning_application/making_a_planning_application/conditions_of_planning_consent.aspx)



Figure 5.4 Phased approach to assess contaminated land



## Phase 1: Preliminary risk assessment

**5.28** The Phase 1 preliminary risk assessment (also known as a desk study) is the collection of information, including site history, to support the development of the conceptual model in order that the conceptual model can be established. A conceptual model is a simple representation of the site and considers all potential contaminant sources, pathways and receptors and any potential contaminant linkages. It should also include a walkover survey which means assessing the site and identifying any visual evidence of sources of contamination (such as ash/made ground or fuel tanks).

**5.29** The conclusions of the report should contain recommendations as to whether the site is, or can be made suitable for its proposed use, and if further works and thus progression to Phase 2 are required.

**5.30** Please note that reports written for conveyancing purposes are not accepted as they do not fulfil the requirements of a Phase 1 assessment. For lower risk developments, such as a change of use, the council may accept a questionnaire<sup>(39)</sup>, depending on the former use of the site. This may negate the requirement for a Phase 1 Preliminary Risk Assessment to be undertaken.

39 [https://www.cheshireeast.gov.uk/environment/environmental\\_health/contaminated\\_land/development\\_and\\_contamination.aspx](https://www.cheshireeast.gov.uk/environment/environmental_health/contaminated_land/development_and_contamination.aspx)



## Phase 2: Site investigation and risk assessment

**5.31** A Phase 2 site investigation is an intrusive on site survey of the actual ground conditions at the site. The aim of this is to prove (or disprove) the presence of possible contaminant linkages identified in the Phase 1 report. This is achieved through the sampling of soil and groundwater and ground gas monitoring where necessary, depending on the conceptual site model for the site.

**5.32** The results of these investigations should determine whether any contamination is present and if so, whether it poses a potential risk to health, controlled waters or the environment. The investigation should be designed so that it takes into account the former, current and proposed land uses.

**5.33** On sites which may be particularly contaminated or have significant risks or management issues it may be prudent to discuss your site investigation proposals with the Contaminated Land team.

**5.34** The results of the sampling and monitoring should be considered within a risk assessment. As part of this, contaminants will be assessed against recognised generic assessment criteria for human health, controlled waters and vapours as appropriate. If the site has contaminants present, which do not have generic assessment criteria, then it may be necessary to derive site specific assessment criteria. Furthermore, if the end use is not applicable to current generic assessment criteria then again derivation of site specific assessment criteria may be required. Further information on risk assessment can be found in the council's Developers' Guide<sup>(35)</sup>.

**5.35** After completing the site investigation works, including all required rounds of gas monitoring (as appropriate), the preliminary conceptual site model developed in Phase 1 should be reviewed and updated on the basis of the findings of the investigation. This updated conceptual model will then identify if further works are required or whether the assessment is complete.

## Phase 3: Remediation

**5.36** Remedial works, if required should be compiled into a Remediation Strategy. For some lower risk sites, it may be sufficient to include this as a section in the Phase 2 report. The remediation strategy must be agreed with the local planning authority and Environment Agency, if applicable, and the relevant conditions discharged ahead of any remedial works commencing.

**5.37** For larger development sites, there is an opportunity to consider a sustainable approach to land contamination risk management. Where appropriate, a sustainability assessment should be carried out as part of the Remediation Options Appraisal in line with industry standards. SuRF-UK sets out a framework<sup>(40)</sup> for undertaking such an assessment. A Remediation Options Appraisal precedes the Remediation Strategy, considering the possible remedial actions for the site.

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40 <https://www.claire.co.uk/projects-and-initiatives/surf-uk>



## Phase 4: Verification

**5.38** How verification (also referred to as validation) of remedial works is to be undertaken would have been set out within the agreed remediation strategy. It is important that this process is carefully and appropriately documented to demonstrate that the development is suitable for use.

**5.39** Verification information must be provided to the local planning authority as part of a discharge of conditions submission for the Contaminated Land Team to assess in good time ahead of the development, or phase of development, being occupied. Without this, the site would be considered to be breaching its planning conditions and may be considered under Part 2A of the Environmental Protection Act 1990. Final discharge would be achieved at the end of the development.

### Using consultants and laboratories

**5.40** Depending on the type, level or extent of contamination, it is likely that a specialist consultant or service (e.g. analytical laboratory) will be required during the process of investigating, assessing and remediating land contamination. Care should be taken in appointing an environmental consultant, opting for a well experienced, sufficiently competent and qualified person or company that carries appropriate levels of professional indemnity insurance. It is critical that the consultant undertaking the works has experience of undertaking contaminated land assessments.

**5.41** All reports should be prepared by appropriately qualified professionals and comply with current good practice and guidance. Accredited drillers and laboratories should be employed for all investigation and analysis. Copies of the full laboratory results, as received from the laboratory with no subsequent amendments should be appended. Sampling methodologies, chain of custody information, all borehole logs and risk assessment calculations should also be included.





## 6 Noise

**6.1** Noise pollution is defined as unwanted sound, which usually occurs as an intrusive or offensive sound. The difference between the two is:

- Intrusive sound may be louder than or significantly different to background noise and is considered likely to disturb or interfere with an individual's daily life.
- Offensive sound is often dependant on the time of day i.e. night time, characteristics or the duration of the noise.

**6.2** Proposed developments involving residential dwellings are often the most noise sensitive and will require protection from noise in the surrounding area, for example noise from transport, commercial, industrial or leisure sources.

**6.3** Industrial or commercial developments are generally the least sensitive to noise, but they can become the source of noise disturbance and as such the noise assessment must include the impact the proposed development will have on surrounding noise sensitive receptors.

**6.4** Paragraph 185 of the NPPF refers to noise, and the explanatory note to the NPSE sets out the concepts that are applied to noise impacts, including NOEL, LOAEL and SOAEL (see paragraphs 2.10 and 2.11 in the 'National policy' section)

**6.5** The agent of change principle was included in the NPPF in 2018 and now places a duty on any potentially noise sensitive development proposed near to existing businesses or community facilities to incorporate suitable mitigation to prevent the noise, from such premises, causing disamenity to future occupants. Therefore, as part of any planning application submitted this must be taken into account and where necessary, a noise impact assessment must have been undertaken and all proposed mitigation measures incorporated into the proposed development. The noise impact assessment should also take account of new developments under construction or with planning permission.

### Acceptable noise levels

**6.6** The NPSE does not set any numerical values to any of the noise impact levels described, but it does state that the SOAEL is likely to vary depending on factors such as the noise source, time of day and the type/sensitivity of the receptor. However, the National Planning Practice Guidance advises how potential noise impacts can be managed through the planning process and provides further advice and guidance on the following matters:

- When noise is relevant to planning
- Whether noise can override other planning concerns
- How to determine noise impacts
- The observed effect levels
- How to establish whether noise is likely to be a concern
- The factors that influence whether noise could be a concern
- Guidance on noise standards in planning policies
- Relevant factors in identifying areas of tranquillity
- Addressing risk of conflict between new development and existing businesses or facilities



- Addressing the adverse effects of noise sources, including where the 'agent of change' needs to put mitigation in place
- Further considerations on mitigating noise impacts on residential developments
- Addressing the potential impact of aviation activities on new development

**6.7** A summary of the effects of noise exposure and the effects on health and quality of life is set out in the National Planning Practice Guidance and replicated in Table 6.1 'Noise exposure hierarchy'.

Table 6.1 Noise exposure hierarchy

Response	Examples of outcomes	Increasing effect level	Action
<b>No Observed Effect Level (NOEL)</b>			
Not present	No effect	No observed effect	No specific measures required
<b>No Observed Adverse Effect Level (NOAEL)</b>			
Present and not intrusive	Noise can be heard, but does not cause any change in behaviour, attitude or other physiological response. Can slightly affect the acoustic character of the area but not such that there is a change in the quality of life	No observed adverse effect	No specific measures required
<b>Lowest Observed Adverse Effect Level (LOAEL)</b>			
Present and intrusive	Noise can be heard and causes small changes in behaviour, attitude or other physiological response, e.g. turning up volume of television; speaking more loudly; where there is no alternative ventilation, having to close windows for some of the time because of the noise. Potential for some reported sleep disturbance. Affects the acoustic character of the area such that there is a small actual or perceived change in the quality of life.	Observed adverse effect	Mitigate and reduce to a minimum
<b>Significant Observed Adverse Effect Level (SOAEL)</b>			
Present and disruptive	The noise causes a material change in behaviour, attitude or other physiological response, e.g. avoiding certain activities during periods of intrusion; where there is no alternative ventilation, having to keep windows closed most of the time because of the noise. Potential for sleep disturbance resulting in difficulty in getting to sleep, premature awakening and difficulty in getting back to sleep. Quality of life diminished due to change in acoustic character of the area.	Significant observed adverse effect	Avoid
Present and very disruptive	Extensive and regular changes in behaviour, attitude or other physiological response and/or an inability to mitigate effect of noise leading to psychological stress, e.g. regular sleep deprivation/awakening; loss of appetite, significant, medically definable harm, e.g. auditory and non auditory	Unacceptable adverse effect	Prevent



**6.8** BS 8233:2014 provides guideline internal ambient noise levels for rooms within specific types of buildings. For dwelling houses, flats and rooms in residential use it recommends that the internal noise levels do not exceed the following guideline levels set out in Table 6.2 'Indoor ambient noise levels for dwellings'.

Table 6.2 Indoor ambient noise levels for dwellings

Activity	Location	07:00 to 23:00	23:00 to 07:00
Resting	Living room	35 dB $L_{Aeq,16hour}$	-
Dining	Dining room/area	40 dB $L_{Aeq,16hour}$	-
Sleeping (daytime resting)	Bedroom	35 dB $L_{Aeq,16hour}$	30 dB $L_{Aeq,8hour}$

## Noise sensitive developments

**6.9** The government has issued planning practice guidance for noise. The document indicates that noise is an important consideration in planning terms. It gives an indication of when noise is an issue and guidance on planning responses for noise levels between the Lowest Observed Adverse Effect Level (LOAEL) and the Significant Observed Adverse Effect Level (SOAEL). The guidance states that local plans can include specific standards to apply to various forms of proposed development and locations in their area.

**6.10** In the context of government policy, Cheshire East Council requires that developments aim for:

1. A noise level between the **No Observed Effect Level** (this is the level of noise exposure below which no effect at all on health or quality of life can be detected) and the **Lowest Observed Adverse Effect Level** (this is the level of noise exposure above which adverse effects on health and quality of life can be detected). Conditions may be attached to achieve this level.

**If point 1 cannot be achieved then:**

2. If the assessment results in a level between the **Lowest Observed Adverse Effect Level** and the **Significant Observed Adverse Effect Level** (this is the level of noise exposure above which significant adverse effects on health and quality of life occur), mitigation will be necessary to reduce the level and thus conditions will be attached to achieve this reduced level.

**If points 1 & 2 cannot be achieved then:**

3. If the assessment results in a **Significant Observed Adverse Effect Level** after mitigation, the application will be recommended for refusal.

**6.11** Cheshire East Council has adopted the following internal noise limits for residential properties, which are established in standards and guidance such as BS8233 and noise guidelines issued by the World Health Organisation.

- Bedrooms (night time; 23:00 - 07:00) 30 dB  $L_{Aeq,8hour}$  (individual noise events should not normally exceed 45 dB  $L_{Amax,F}$  more than 15 times)



- Living Rooms (daytime; 07:00 - 23:00) 35 dB L<sub>Aeq,16hour</sub>
- Gardens and terraces (daytime, 07:00-23:00) 55 dB L<sub>Aeq,16hour</sub>

## Aircraft

**6.12** Saved Policy T18 'Restriction on Development within NNI Zones' in the Macclesfield Borough Local Plan provides detailed policy advice regarding noise sensitive developments within areas affected by aircraft noise. Once adopted, this policy will be replaced by Policy ENV 13 'Aircraft noise' in the SADPD.

## Noise generative developments

**6.13** Potentially noisy development may cover a large range of different activities and planning use classes. Typically, the following use classes would be considered to have the potential for greater impact on noise sensitive land uses at or around the proposed development:

- B2/B8 General industrial and storage/distribution.
- E(b) Sale of food and drink for consumption (mostly) on the premises (e.g. restaurants and cafés).
- E(d) Indoor sport, recreation or fitness.
- E(e) Provision of medical or health services.
- E(f) Creche, day nursery or day centre.
- F1 Learning and non-residential institutions
- F2(c) Areas or places for outdoor sport or recreation
- F2(d) Indoor or outdoor swimming pools or skating rinks
- Sui Generis uses are by their nature often more varied and specific consideration of any proposal within this category is required to ensure that potential noise impacts are minimised. This includes (but is not limited to) developments such as theatres, amusement arcades/funfairs, taxi businesses, hostels, waste disposal installations, nightclubs, casinos, drinking establishments, hot food takeaways, live music venues, cinemas, concert halls, bingo halls and dance halls.

**6.14** Prior to submitting a planning application the applicant must review all of the noise sensitive areas that can potentially be affected by the noise from the proposed development. This will form the basis of the required Noise Impact Assessment (NIA) and the 'Noise impact assessments' section below provides more details regarding the assessment. If the applicant is unsure whether a NIA is required they should contact the council's Environmental Protection Team<sup>(41)</sup> who will be able to offer more advice.

**6.15** If the applicant is proposing any pre-application discussions with the council's Development Management Team, Then further advice can be requested and provided through this process. However, the aim will be for all such development to ensure that the noise levels for sensitive receptors do not exceed those set out in the 'Acceptable noise levels' section above.

41 Email [environmentalprotection2@cheshireeast.gov.uk](mailto:environmentalprotection2@cheshireeast.gov.uk)



## Noise impact assessments

**6.16** Noise control by its very nature is complex, therefore it may be necessary to engage an acoustic consultant to undertake a NIA and, if required, recommend appropriate noise mitigation measures. Advice regarding the methodology for undertaking a NIA can be obtained from the council's Environmental Protection Team<sup>(42)</sup>.

**6.17** There are various different standards and guidance available covering a range of situations to help determine the type of noise assessment required. The main standards used are:

- **BS4142:2014+A1:2019** - Methods for rating and assessing industrial and commercial sound
- **BS8233:2014** - Guidance on sound insulation and noise reduction for buildings
- **Department of Transport technical memorandum: Calculation of Road Traffic Noise (1998)** - Describes the procedures for calculating noise from road traffic. These procedures are necessary to assess entitlement under the Noise Insulation Regulations, but they also provide guidance appropriate to the calculation of traffic noise for more general applications.
- **Department of Transport technical memorandum: Calculation of Railway Noise (1995)** - Primarily concerned with the procedures for calculating noise from moving railway vehicles as defined in the Noise Insulation (Railways and Other Guided Transport Systems) Regulations 1995.

**6.18** With regards to NIAs for noise sensitive sites, the assessment must include the following:

- The reason for and scope of the report
- The sources of noise in the area
- Location plan of proposed development and likely receptors
- Methodology used including location of noise monitoring, equipment used, weather conditions
- Reasons for deviations from standard methods (if appropriate)
- Full table of results
- Comparison of survey results with noise standards
- Recommendations for noise control measures
- Full calculations of the noise reduction expected to support any suggested noise control measures

**6.19** In addition, to the list above all noise generative sites must also include an assessment of potential noise sources including ancillary equipment and noise from deliveries to and from the site.

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42 Email [environmentalprotection2@cheshireeast.gov.uk](mailto:environmentalprotection2@cheshireeast.gov.uk)



## Mitigation measures

**6.20** Based on the results and conclusion of a noise impact assessment, mitigation measures may be recommended to either protect sensitive premises or to reduce noise arising from noise generative premises. There are a range of noise mitigation measures which can be used. The examples given below are not an exhaustive list.

- **Building orientation and layout:** The design of buildings should be that noise sensitive rooms such as bedrooms, be orientated away from noise sources such as local roads and commercial developments. In addition, potentially noise generative sites should ensure that plant and equipment and other noisy activities (such as delivery routes) are located as far as possible from noise sensitive properties.
- **Screening:** There is a range of specialist acoustic screening, which can be used to reduce noise from a range of noise sources, but this can also include non-specialist equipment such as suitable close-boarded fencing to protect gardens and habitable rooms.
- **Windows and doors:** The selection of the correct windows and doors can have a significant effect on reducing noise levels within rooms. Therefore, suitable acoustic or double glazing should be included as part of any mitigation.
- **Acoustic ventilation:** There are situations where noise sensitive premises are in noisy environments such as town centres. In these situations there can be dramatic change in the noise experienced when a window is opened for ventilation purposes. Therefore, suitable acoustic ventilation should be considered to help residents maintain a reasonable level of noise.
- **Permanent plant and equipment:** The location and suitable screening of plant or equipment is critical to reducing noise levels and should be addressed during the design phase to ensure that the noise levels are minimised.

**6.21** Wherever possible, mitigation measures should be embedded into the scheme design and included in the submitted proposals rather than being secured later as a condition of permission. Acoustic mitigation measures may well be large, noisy or visually intrusive and would need to be properly assessed as part of the proposal.

## Noise during the construction phase

**6.22** Noise from construction or demolition work can be intrusive and disruptive to local business and noise sensitive land uses. For this reason construction/demolition activity should be restricted to daytime periods and have clearly defined start and finish times. It is usually recommended that all noisy works (audible beyond the site boundary) are restricted to the following:

- **08.00 to 18.00 Monday - Friday**
- **09.00 to 14.00 on Saturday**
- **No work to be undertaken on Sunday or Bank Holidays**

**6.23** By using set working hours for noise generating activity on site, as well as deliveries, respite is provided for local residents, businesses and workers close to the development. The council is aware that noise and disruption to local residents is inevitable due to the very nature of the work and hence communication with local residents is critical to overcoming any issues and will allow the development to progress.





**6.24** For larger developments or those likely to be taking place over a longer period of time, it may be worth considering joining the national Considerate Contractors Scheme<sup>(43)</sup>. These types of schemes suggest guidelines, which minimise disruption to local residents/businesses and provide a code of conduct for employees on site so that their work does not unduly upset local residents/businesses. These types of schemes include noise and usually other elements that may cause disruption such as dust, deliveries, working hours, behaviour on site, delivery routes and non-construction noise such as radios.

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43 <https://www.ccscheme.org.uk/>



## 7 Light

**7.1** Artificial light provides valuable benefits to society, including through extending opportunities for sport and recreation and can be essential to new development. However, artificial light is not always required and hence has the potential to become what is termed 'light pollution' or 'obtrusive light', especially when it is not in a suitable location and affects surrounding residents and causes annoyance to people. For maximum benefit, the best use of artificial light is about getting the right light, in the right place and providing light at the right time.

### What is Light Pollution?

**7.2** Light pollution is described as unwanted light from any artificial source and can occur as:

- Sky Glow: the orange glow visible around urban areas resulting from the 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 sky;
- Light trespass: light spillage beyond the boundary of the property on which a light is located.

### Light and planning

**7.3** Artificial light alone is not classed as development, but the structures and installation may be classed as such and require planning permission. Planning permission is normally required for the following types of installations:

- Lights mounted on poles or other similar structures.
- External lighting proposed as part of an industrial or commercial scheme.
- New lighting structures or works, which are integral to other development requiring planning permission.
- Illuminated advertisements, although there are some exceptions such as those indicating medical services and some commercial advertisements on the frontage of business premises.
- Large scale installations such as that required for sports facilities.

**7.4** Further advice regarding whether planning permission is required for a lighting scheme can be obtained from the council's Permitted Development Enquiries Service<sup>(44)</sup>. Developers are required to submit, as part of a planning application, details of lighting schemes, which should include light scatter/contour diagrams. The aim will be to minimise light pollution encroaching on to neighbouring properties caused by light spillage.

### Sources of light pollution

**7.5** Light pollution can arise from many different sources:

- All night (and sometimes daytime) floodlighting of buildings; illuminated shop windows and advertising signs which remain switched on overnight.

<sup>44</sup> [https://www.cheshireeast.gov.uk/planning/view\\_a\\_planning\\_application/do\\_i\\_need\\_planning\\_permission/permitted\\_development\\_enquiry/permitted\\_development\\_enquiry.aspx](https://www.cheshireeast.gov.uk/planning/view_a_planning_application/do_i_need_planning_permission/permitted_development_enquiry/permitted_development_enquiry.aspx)



- Domestic security lighting which is inappropriately positioned and intrudes on neighbouring properties.
- Temporary lighting associated with construction and engineering projects.
- Flood lighting of sports facilities, such as golf driving ranges, football pitches etc.

## Lighting assessments

**7.6** A lighting assessment will be required if there is the potential for any proposed lighting to have an impact on the surrounding area. The assessment must provide full details of the lighting scheme, together with the appropriate light scatter/contour diagrams to demonstrate that the scheme will not affect the amenity of the surrounding area.

**7.7** Any proposal for artificial lighting should be accompanied by that information normally required for any other planning proposal and additionally the information set out below:

- A statement setting out why a lighting scheme is required, the proposed users and the frequency and length of use in terms of hours of illumination.
- A site survey showing the area to be lit relative to the surrounding area, the existing landscape features together with proposed landscaping features to mitigate the impacts of the proposed lighting.
- A technical report prepared by a suitably qualified Lighting Engineer setting out the type of lights, performance, height and spacing of lighting columns. The light levels to be achieved over the intended area, the site boundaries and the range/intensity of lighting beyond the site boundary.

## Mitigation measures

**7.8** Effective lighting should be well directed and almost invisible from a distance. The lighting scheme should not exceed the minimum required for the use and the design of any scheme should include the following:

**7.9** Proper design and planning: Lighting shall only be used where and when necessary; using appropriate strength of light; and by adjusting light fittings to direct the light to where it is required. Luminance should be appropriate to the surroundings and character of the area as a whole. 'Over lighting' should be avoided and shields, reflectors or baffles used to prevent overspill of light to sensitive areas.

**7.10** Direction of light: Light should be directed downwards wherever possible to illuminate its target and not upwards. Consideration should be given to providing lighting that does not glare on approach and which places light onto the ground and not into the sky where it is wasted.

**7.11** Sensor switches: All security lighting schemes should use one of the following options:

- The use of Passive Infrared (PIR) sensors; or
- All-night lighting at a level of low brightness.

**7.12** If correctly aligned and installed, a PIR sensor that switches on lighting when an intruder is detected, often acts as a greater deterrent than permanently floodlit areas, which allow the potential intruder to look for weaknesses in security.



## Planning conditions

**7.13** Where an assessment has been reviewed and approved, conditions may be attached to any planning approval to control the lighting scheme. These may include the following, which is not an exhaustive list:

- Limiting the time the lighting is used.
- Limiting the use of lighting schemes to identified uses.
- Specifying lamps, luminaires and columns.
- The design, height, position and angle of the lighting.
- The use of planting and bunding to contain lighting effects.
- Maintenance of the lighting scheme and post installation checks in accordance with the approved scheme.

**7.14** These conditions will be applied as necessary by the council to help reduce obtrusive light from glare and spillage to protect residential amenity.

## Light during the construction phase

**7.15** Light from construction or demolition work can be extremely intrusive to neighbouring properties. As part of the Construction Management Plan details of the lighting scheme for the site should be submitted, in order to demonstrate that the proposed scheme is appropriate in terms of its purpose and setting.



## 8 Odour

**8.1** The planning system should ensure that all new developments are appropriate for the location and whilst ideally odour generating and odour sensitive uses should be separated, this is not always possible. In the situations when it is not possible to separate the different types of premises it may be necessary to employ odour abatement and mitigation measures.

**8.2** New proposals for odour generating developments will require an odour impact risk assessment to be submitted with the planning application, either as a stand-alone assessment or as part of an Environmental Impact Assessment for the development.

**8.3** Typical examples of potentially odorous activities are:

- hot food premises
- food production and manufacturing sector
- landfill, waste disposal and recycling sites
- intensive livestock and animal rearing / farming
- sewage / wastewater and sludge treatment works
- processing / rendering of animals / animal by-products
- solid waste management, handling and treatment plants (for example compost windrows turning)
- biofuels and anaerobic digestion facilities
- pet food processing
- foundry emissions

### Requirements for hot food premises

**8.4** A scheme detailing the kitchen extraction system must be submitted with the planning application. This must also detail the nature of the food to be cooked, type and location of any relevant filters, location of external duct work including the discharge point/termination height and any cowl etc. together with any mitigation required. Mitigation measures may include, but not restricted to, filtration, odour abatement and regular maintenance of the system to control the discharge of odours and fumes arising from food handling; preparation and cooking.

### Odour impact assessments

**8.5** An assessment of the impact of an odour source, process, activity or use on surrounding users of the land should usually seek to identify and contain the following key elements:

- A description of existing baseline odour conditions (including complaints history) where relevant.
- A description of the location of receptors (either existing or proposed) and their relative sensitivities to odour effects.
- Details of potential odour sources
- A description of control/mitigation and design measures
- Where odour modelling has been used the report should contain full details of the input data and modelling options used to allow a third party to reproduce the results.



## Appendix A Glossary

Air Quality Assessment Level (AQAL)	When carrying out an air quality assessment, an AQAL may be an air quality objective (set out in the Air Quality Standards (England) Regulations 2007), EU limit or target value, or an Environment Agency 'Environment Assessment Level'.
Air Quality Management Area (AQMA)	If any areas are either exceeding or likely to exceed any of the air quality objectives (set out in the Air Quality Standards (England) Regulations 2007), an AQMA must be declared and an action plan drawn up, setting out how the local authority proposes to improve the air quality within that area.
Air Quality Strategy (AQS)	The UK AQS sets out how the government aims to deal with local air quality and the impact of this on health and wellbeing.
Combined Heat and Power (CHP)	Combined Heat and Power (CHP) is the co-production of electricity and heat for a building (or an industrial process). CHP is generally a more energy efficient technology than the on-site boilers and electricity from the National Grid that is used to heat and power most buildings. This is due to the low efficiency of large scale electricity generation and supply.
Environmental Impact Assessment (EIA)	An EIA is a procedure which serves to provide information about the likely effects of a proposed project on the environment, so as to inform the decision making process as to whether the development should be allowed to proceed, and if so, on what terms. It is required under the Town and Country Planning (Environmental Impact Assessment) Regulations for certain planning applications.
Local Air Quality Management (LAQM)	LAQM is a process requiring all local authorities to regularly review and assess air quality within their area against the air quality objectives set out the Air Quality Standards (England) Regulations 2007.
Local Air Quality Management: Technical Guidance (TG16)	TG16 is designed to support local authorities in carrying out their duties in relation to Local Air Quality Management (LAQM)
Local Plan Strategy (LPS)	The LPS is part of the development plan and sets out the vision and overall planning strategy for the borough over the period to 2030. It includes strategic planning policies and allocates strategic sites for development.
Lowest Observed Adverse Effect Level (LOAEL)	The level of noise exposure above which adverse effects on health and quality of life can be detected.
National Planning Policy Framework (NPPF)	The NPPF for sets out the government's planning policies for England and how these should be applied.





Noise Impact Assessment (NIA)	An assessment of noise issues using measurements of existing noise and prediction, calculation and modelling of proposed noise sources; and consideration of the impact on noise-sensitive sites.
No Observed Adverse Effect Level (NOAEL)	The level of noise exposure at which noise can be heard but does not cause any change on behaviour, attitude or other physiological response.
No Observed Effect Level (NOEL)	The level of noise exposure below which no effect at all on health or quality of life can be detected.
Passive Infrared (PIR) sensor	A PIR sensor switches lighting on when a person is detected.
Significant Observed Adverse Effect Level (SOAEL)	The level of noise exposure above which significant adverse effects on health and quality of life occur.
Site Allocations and Development Policies Document (SADPD)	The SADPD is currently a draft document but once adopted, it will be part of the development plan. It will support the policies and proposals of the LPS by providing additional policy detail through non-strategic and detailed planning policies and site allocations.
Strategic Environmental Assessment (SEA)	SEA is a requirement of European Directive 2001/42/EC for plans and programmes that have significant environmental effects. The objective is to provide for a high level of protection of the environment with a view to promoting the achievement of sustainable development.
Supplementary Planning Document (SPD)	SPDs add further detail to the policies in the development plan and are used to provide guidance for development on specific sites, or on particular issues. SPDs may be a material planning consideration in planning decisions but are not part of the development plan.



## Appendix B Resources and contacts

### Resources

- Air pollution monitoring data for Cheshire East:  
[https://www.cheshireeast.gov.uk/environment/environmental\\_health/local\\_air\\_quality/what\\_is\\_pollution\\_like\\_near\\_me/air-pollution-monitoring.aspx](https://www.cheshireeast.gov.uk/environment/environmental_health/local_air_quality/what_is_pollution_like_near_me/air-pollution-monitoring.aspx)
- Air quality appraisal damage cost guidance:  
<https://www.gov.uk/government/publications/assess-the-impact-of-air-quality>
- Air quality background mapping data:  
<https://uk-air.defra.gov.uk/data/laqm-background-home>
- Air Quality Management Area maps for Cheshire East:  
[https://www.cheshireeast.gov.uk/environment/environmental\\_health/local\\_air\\_quality/aqma\\_area\\_maps.aspx](https://www.cheshireeast.gov.uk/environment/environmental_health/local_air_quality/aqma_area_maps.aspx)
- Air Quality Standards (England) Regulations 2007:  
<https://www.legislation.gov.uk/uksi/2007/64/regulation/23/made>
- Biomass and Air Quality Information:  
<https://www.environmental-protection.org.uk/wp-content/uploads/2016/03/Biomass-and-Air-Quality-Information-for-Developers-2017.pdf>
- Change of Use Contaminated Land Questionnaire:  
[https://www.cheshireeast.gov.uk/environment/environmental\\_health/contaminated\\_land/development\\_and\\_contamination.aspx](https://www.cheshireeast.gov.uk/environment/environmental_health/contaminated_land/development_and_contamination.aspx)
- Cheshire East Contaminated Land Strategy:  
[https://www.cheshireeast.gov.uk/environment/environmental\\_health/contaminated\\_land/contaminated\\_land.aspx](https://www.cheshireeast.gov.uk/environment/environmental_health/contaminated_land/contaminated_land.aspx)
- Cheshire Minerals Local Plan 1999:  
[https://www.cheshireeast.gov.uk/planning/spatial-planning/saved\\_and\\_other\\_policies/cheshire\\_minerals\\_local\\_plan/cheshire\\_minerals\\_local\\_plan.aspx](https://www.cheshireeast.gov.uk/planning/spatial-planning/saved_and_other_policies/cheshire_minerals_local_plan/cheshire_minerals_local_plan.aspx)
- Cheshire Waste Local Plan 2007:  
[https://www.cheshireeast.gov.uk/planning/spatial-planning/saved\\_and\\_other\\_policies/cheshire\\_waste\\_local\\_plan/cheshire\\_waste\\_local\\_plan.aspx](https://www.cheshireeast.gov.uk/planning/spatial-planning/saved_and_other_policies/cheshire_waste_local_plan/cheshire_waste_local_plan.aspx)
- Clean Air Strategy 2019:  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/770715/clean-air-strategy-2019.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/770715/clean-air-strategy-2019.pdf)
- Combined Heat and Power Air Quality Guidance for Local Authorities:  
[http://www.iaqm.co.uk/text/guidance/epuk/chp\\_guidance.pdf](http://www.iaqm.co.uk/text/guidance/epuk/chp_guidance.pdf)
- Congleton Borough Local Plan 2005:



[https://www.cheshireeast.gov.uk/planning/spatial-planning/saved\\_and\\_other\\_policies/congleton\\_local\\_plan/congleton\\_local\\_plan.aspx](https://www.cheshireeast.gov.uk/planning/spatial-planning/saved_and_other_policies/congleton_local_plan/congleton_local_plan.aspx)

- Crewe and Nantwich Borough Local Plan 2005:  
[https://www.cheshireeast.gov.uk/planning/spatial-planning/saved\\_and\\_other\\_policies/crewe\\_and\\_nantwich\\_local\\_plan/crewe\\_and\\_nantwich\\_local\\_plan.aspx](https://www.cheshireeast.gov.uk/planning/spatial-planning/saved_and_other_policies/crewe_and_nantwich_local_plan/crewe_and_nantwich_local_plan.aspx)
- Developing Land Within Cheshire East Council, a guide to submitting planning applications - land contamination:  
[https://www.cheshireeast.gov.uk/environment/environmental\\_health/contaminated\\_land/development\\_and\\_contamination.aspx](https://www.cheshireeast.gov.uk/environment/environmental_health/contaminated_land/development_and_contamination.aspx)
- Environmental Permitting (England and Wales) Regulations 2016:  
<https://www.legislation.gov.uk/uksi/2016/1154/contents/made>
- Environmental Protection Act 1990:  
<https://www.legislation.gov.uk/ukpga/1990/43/contents>
- Guidance on applying for the discharge of planning conditions:  
[https://www.cheshireeast.gov.uk/planning/view\\_a\\_planning\\_application/making\\_a\\_planning\\_application/conditions\\_of\\_planning\\_consent.aspx](https://www.cheshireeast.gov.uk/planning/view_a_planning_application/making_a_planning_application/conditions_of_planning_consent.aspx)
- Guidance on the assessment of dust from demolition and construction:  
<https://iaqm.co.uk/text/guidance/construction-dust-2014.pdf>
- Land-Use Planning & Development Control: Planning For Air Quality:  
[https://www.environmental-protection.org.uk/wp-content/uploads/2013/07/air-quality-planning-guidance\\_Jan17.pdf](https://www.environmental-protection.org.uk/wp-content/uploads/2013/07/air-quality-planning-guidance_Jan17.pdf)
- Local Air Quality Management Technical Guidance (TG16):  
<https://laqm.defra.gov.uk/documents/LAQM-TG16-April-21-v1.pdf>
- Local Plan Strategy (LPS):  
<https://www.cheshireeast.gov.uk/localplanstrategy>
- Macclesfield Borough Local Plan 2004:  
[https://www.cheshireeast.gov.uk/planning/spatial-planning/saved\\_and\\_other\\_policies/macclesfield\\_local\\_plan/macclesfield\\_local\\_plan.aspx](https://www.cheshireeast.gov.uk/planning/spatial-planning/saved_and_other_policies/macclesfield_local_plan/macclesfield_local_plan.aspx)
- National Planning Policy for Waste (NPPW):  
<https://www.gov.uk/government/publications/national-planning-policy-for-waste>
- National Planning Policy Framework (NPPF):  
<https://www.gov.uk/guidance/national-planning-policy-framework>
- National Planning Practice Guidance (NPPG):  
<https://www.gov.uk/government/collections/planning-practice-guidance>
- Neighbourhood Plans:  
<https://www.cheshireeast.gov.uk/planning/neighbourhood-plans/completed-neighbourhood-plans.aspx>



- Noise Policy Statement for England (NPSE):  
<https://www.gov.uk/government/publications/noise-policy-statement-for-england>
- Pre-application advice service:  
[https://www.cheshireeast.gov.uk/planning/view\\_a\\_planning\\_application/pre-application\\_advice/pre-application\\_advice.aspx](https://www.cheshireeast.gov.uk/planning/view_a_planning_application/pre-application_advice/pre-application_advice.aspx)
- Site Allocations and Development Policies Document:  
<https://www.cheshireeast.gov.uk/sadpd>
- Town and Country Planning (Environmental Impact Assessment) Regulations 2017:  
<https://www.legislation.gov.uk/uksi/2017/571/contents/made>

## Contacts

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## Appendix C Strategic Environmental Assessment and Habitats Regulations Assessment Screening Report

**C.1** Cheshire East Council has produced a draft Environmental Protection SPD. The purpose of the SPD is to provide guidance on the council's approach to Environmental Protection issues when considering planning applications. It adds further detail to policies contained within the Development Plan and sets out relevant technical advice aimed at preventing or reducing the impact of proposed developments and protecting public health, wellbeing and amenity.

**C.2** The Development Plan for Cheshire East consists of:

- The Cheshire East Local Plan Strategy adopted July 2017;
- Saved policies from the Borough of Crewe and Nantwich Local Plan 2005; Cheshire Replacement Minerals Local Plan 1999; Cheshire Replacement Waste Local Plan 2007; Congleton Borough Local Plan 2005; and and Macclesfield Borough Local Plan 2004; and
- Completed neighbourhood plans.

**C.3** The policy framework for the SPD is contained mostly in the LPS, with a particular focus on Policy SE 12 'Pollution, land contamination and land instability'. LPS policies SD 1 'Sustainable development in Cheshire East', SD 2 'Sustainable development principles' and SC 3 'Health and well-being' also contribute to the policy framework for the SPD.

**C.4** The council is also in the process of preparing the second part of its Local Plan, called the Site Allocations and Development Policies Document. The draft SADPD was submitted to the Secretary of State on 29 April 2021 under Regulation 22 of the Town and Country Planning (Local Planning) (England) Regulations 2012. It will now be subject to examination by an independent planning inspector.

**C.5** The emerging SADPD policies are non-strategic in nature and have been drafted to be in accordance with the strategic policies of the LPS. The draft Environmental Protection SPD has been prepared in conformity with the policies contained in the adopted LPS and emerging SADPD.

**C.6** This screening report is designed to determine whether or not the contents of the draft Environmental Protection SPD require a Strategic Environmental Assessment (SEA) in accordance with the European Directive 2001/42/EC and associated Environmental Assessment of Plans and Programmes Regulations 2004. The report also addresses whether the draft Environmental Protection SPD has a significant adverse effect upon any internationally designated site(s) of nature conservation importance and thereby subject to the requirements of the Habitats Regulations. The report contains separate sections that set out the findings of the screening assessment for these two issues.

**C.7** This appendix will be the subject of consultation alongside the draft Environmental Protection SPD, in accordance with the relevant regulations and the council's Statement of Community Involvement between **12PM on Monday 18th October 2021 and midnight on Monday the 29th November 2021**. This will include consultation with the relevant



statutory bodies (Natural England, Environment Agency and Historic England). Comments received during the consultation on the draft Environmental Protection SPD and this appendix will be reflected in future updates to the document.

## Strategic Environmental Assessment screening

**C.8** The objective of SEA is to provide for a high level of protection of the environment with a view to promoting the achievement of sustainable development. It is a requirement of European Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment (also known as the SEA Directive). The Directive was transposed in UK law by the Environmental Assessment of Plans and Programmes Regulations 2004, often known as the SEA Regulations.

**C.9** Article 3(3) and 3(4) of the Regulations make clear that SEA is only required for plans and programmes when they have significant environmental effects. The 2008 Planning Act removed the requirement to undertake a full Sustainability Appraisal for a SPD although consideration remains as to whether the SPD requires SEA, in exceptional circumstances, when likely to have a significant environmental effect(s) that has not already been assessed during the preparation of a Local Plan.

### Overview of the draft Environmental Protection SPD

**C.10** The purpose of the draft Environmental Protection SPD is to provide further guidance on the implementation of LPS policies SE 12 'Pollution, land contamination and land instability', SD 1 'Sustainable development in Cheshire East', SD 2 'Sustainable development principles' and SC 3 'Health and well-being'.

**C.11** It is important to note that policies in the LPS were the subject of Sustainability Appraisal, which incorporated the requirements of the SEA regulations (as part of an Integrated Sustainability Appraisal). The likely significant environmental effects have already been identified and addressed – the SPD merely provides guidance on existing policies. The LPS Integrated Sustainability Appraisal has informed this SPD screening assessment.

**C.12** SEA has been undertaken for policies SE 12 'Pollution, land contamination and land instability', SD 1 'Sustainable development in Cheshire East', SD 2 'Sustainable development principles' and SC 3 'Health and well-being' as part of the Integrated Sustainability Appraisal that supported the LPS. For the purposes of compliance with the UK SEA Regulations and the EU SEA directive, the following reports comprised the SA “Environmental Report”:

- SD 003 – LPS Submission Sustainability (Integrated) Appraisal (May 2014);
- PS E042 – LPS Sustainability (Integrated) Appraisal of Planning for Growth Suggested Revisions (August 2015);
- RE B006 – LPS Sustainability (Integrated) Appraisal Suggested Revisions to LPS Chapters 9-14 (September 2015);
- RE F004 – Sustainability (Integrated) Appraisal – Proposed Changes (March 2016);
- PC B029 – Sustainability (Integrated) Appraisal - Proposed Changes to Strategic and Development Management Policies (July 2016);





- PC B030 – Sustainability (Integrated) Appraisal - Proposed Changes to Sites and Strategic Locations (July 2016);
- MM 002 - Sustainability (Integrated) Appraisal - Main Modifications Further Addendum Report.

**C.13** In addition, an SA adoption statement was prepared in July 2017 to support the adoption of the LPS. It should also be noted that the emerging SADPD and the policies contained in it have also been supported by a Sustainability Appraisal (incorporating the requirements for the SEA directive).

## SEA Screening Process

**C.14** The council is required to undertake a SEA screening to assess whether the draft Environmental Protection SPD is likely to have significant environmental effects. If the draft Environmental Protection SPD is considered unlikely to have significant environmental effects through the screening process, then the conclusion will be that SEA is not necessary.

**C.15** Table C.1 'Assessment of likely significant effects on the environment' assesses whether the draft SPD will have any significant environmental effects using the criteria set out in Annex II of SEA Directive 2001/42/EC<sup>(45)</sup> and Schedule 1 of the Environmental Assessment of Plans and Programmes Regulations 2004<sup>(46)</sup>.

Table C.1 Assessment of likely significant effects on the environment

SEA Directive Criteria Schedule 1 of Environmental Assessment of Plans and Programmes Regulations 2004	Summary of significant effects, scope and influence of the document	Is the plan likely to have a significant environmental effect (yes/no)
<b>1. Characteristics of the SPD having particular regard to:</b>		
(a) The degree to which the SPD sets out a framework for projects and other activities, either with regard to the location, nature, size or operating conditions or by allocating resources.	<p>Guidance is supplementary to policies contained in the LPS and emerging SADPD, both of which have been the subject of SA / SEA. The policies provide an overarching framework for development in Cheshire East.</p> <p>The draft Environmental Protection SPD provides further clarity and certainty to form the basis for the submission and determination of planning applications, consistent with policies in the LPS.</p> <p>Final decisions will be determined through the development management process. No resources are allocated.</p>	No

<sup>45</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32001L0042&from=EN>

<sup>46</sup> [https://www.legislation.gov.uk/uksi/2004/1633/pdfs/uksi\\_20041633\\_en.pdf](https://www.legislation.gov.uk/uksi/2004/1633/pdfs/uksi_20041633_en.pdf)



SEA Directive Criteria Schedule 1 of Environmental Assessment of Plans and Programmes Regulations 2004	Summary of significant effects, scope and influence of the document	Is the plan likely to have a significant environmental effect (yes/no)
(b) The degree to which the SPD influences other plans and programmes including those in a hierarchy.	The draft SPD is in general conformity with the LPS, which has been subject to a full Sustainability Appraisal (incorporating SEA). It is adding more detail to the adopted LPS and other policies in the Development Plan including the emerging SADPD, which has itself been the subject of Sustainability Appraisal. Therefore, it is not considered to have an influence on any other plans and programmes.	No
(c) The relevance of the SPD for the integration of environmental considerations in particular with a view to promoting sustainable development.	The draft SPD promotes sustainable development, in accordance with the NPPF (2021) and LPS policies. The LPS has been the subject of a full Sustainability Appraisal (incorporating SEA). The draft SPD has relevance for the integration of environmental considerations and promotes sustainable development by providing guidance to make sure that proposed developments meet policy requirements and is designed to minimise the impacts on public health, wellbeing and amenity.	No
(d) Environmental problems relevant to the SPD.	The SPD provides guidance to make sure that developments comply with existing policies related to environmental problems including air pollution and contaminated land remediation.	No
(e) The relevance of the SPD for the implementation of Community legislation on the environment (for example plans and programmes related to waste management or water protection).	The draft SPD will not impact on the implementation of community legislation on the environment.	No
<b>2. Characteristics of the effects and area likely to be affected having particular regard to:</b>		
(a) The probability, duration, frequency and reversibility of the effects.	The draft SPD adds detail to adopted LPS policy; itself the subject of SA.	No
(b) The cumulative nature of the effects of the SPD.	The draft SPD adds detail to adopted LPS policy, itself the subject of SA. The SA associated with the LPS and emerging SADPD have considered relevant plans and programmes. No other plans or programmes have emerged that alter this position.	No



SEA Directive Criteria Schedule 1 of Environmental Assessment of Plans and Programmes Regulations 2004	Summary of significant effects, scope and influence of the document	Is the plan likely to have a significant environmental effect (yes/no)
(c) The trans-boundary nature of the effects of the SPD.	Trans-boundary effects will not be significant. The draft SPD will not lead to any transboundary effects as it just providing additional detail regarding the implementation of LPS policies SE 12, SD 1, SD 2 & SC 3 and does not, in itself, influence the location of development.	No
(d) The risks to human health or the environment (e.g. due to accident).	The draft SPD will not cause risks to human health or the environment as it is adding detail to environmental policies in the Local Plan.	No
(e) The magnitude and spatial extent of the effects (geographic area and size of the population likely to be affected) by the SPD.	The draft SPD covers the Cheshire East administrative area (excluding the part falling within the Peak District National Park). The draft SPD will assist those making planning applications in the borough.	No
(f) The value and vulnerability of the area likely to be affected by the SPD due to: <ul style="list-style-type: none"> <li>• Special natural characteristics or cultural heritage</li> <li>• Exceeded environmental quality standards or limit values</li> <li>• Intensive land use.</li> </ul>	The draft SPD will not lead to significant effects on the value or vulnerability of the area. It is adding detail regarding the implementation of LPS policies SE 12, SD 1, SD 2 & SC 3 and does not, in itself, influence the location of development.	No
(g) The effects of the SPD on areas or landscapes which have recognised national Community or international protected status.	The SPD does not influence the location of development, so will not cause effects on protected landscape sites.	No

## Conclusion and SEA screening outcome

**C.16** The SPD does not set new policy, but supplements and provides further guidance on existing LPS policy. It is not considered to have a significant effect on the environment and therefore SEA is not required on the draft Environmental Protection SPD. This conclusion will be revisited following consideration of the views of the three statutory consultees (the Environment Agency, Historic England and Natural England) and if there are significant changes to the SPD following public consultation.



## Habitats Regulations Assessment statement

**C.17** The council has considered whether its planning documents would have a significant adverse effect upon the integrity of internationally designated sites of nature conservation importance. European Directive 92/43/EEC on the Conservation of Natural Habitats and Wild Flora and Fauna (Habitats Directive) provides legal protection to habitats and species of European importance. The principal aim of this directive is to maintain at, and where necessary restore to, favourable conservation status of flora, fauna and habitats found at these designated sites.

**C.18** The Directive is transposed into English legislation through the Conservation of Habitats and Species Regulations 2017 (a consolidation of the amended Conservation of Habitats and Species Regulations, 2010) published in November 2017.

**C.19** European sites provide important habitats for rare, endangered or vulnerable natural habitats and species of exceptional importance in the European Union. These sites consist of Special Areas of Conservation (SACs, designated under the EU Directive 92/43/EEC on the conservation of natural habitats and of fauna and flora (Habitats Directive)), and Special Protection Areas (SPAs, designated under EU Directive 2009/147/EC on the conservation of wild birds (the Birds Directive)). Government policy requires that Ramsar sites (designated under the International Wetlands Convention, UNESCO, 1971) are treated as if they are fully designated European sites for the purposes of considering development proposals that may affect them.

**C.20** Spatial planning documents may be required to undergo Habitats Regulations Screening if they are not directly connected with or necessary to the management of a European site. As the draft Environmental Protection SPD is not connected with, or necessary to, the management of European sites, the HRA implications of the SPD have been considered.

**C.21** A judgment, published on 13 April 2018 (People Over Wind and Sweetman v Coillte Teoranta (C-323/17)) clarified that measures intended to avoid or reduce the harmful effects of a proposed project on a European site may no longer be taken into account by competent authorities at the Habitat Regulations Assessment “screening stage” when judging whether a proposed plan or project is likely to have a significant effect on the integrity of a European designated site.

**C.22** Both the LPS and emerging SADPD have been subject to HRA.

**C.23** The draft Environmental Protection SPD does not introduce new policy; it provides further detail to those policies contained within the LPS. The HRA concluded that policies SE 12 ‘Pollution, land contamination and land instability’, SD 1 ‘Sustainable development in Cheshire East’, SD 2 ‘Sustainable development principles’ and SC 3 ‘Health and well-being’ could not have a likely significant effect on a European Site. The same applies to the draft Environmental Protection SPD.

**C.24** The draft Environmental Protection SPD in itself, does not allocate sites and is a material consideration in decision making, once adopted.



**C.25** The draft Environmental Protection SPD either alone or in combination with other plans and programmes, is not likely to have a significant effect on any European site. Therefore, a full Appropriate Assessment under the requirements of the Habitats Regulations is not required.

### **Conclusion and HRA screening outcome**

**C.26** Subject to views of the three statutory consultees (the Environment Agency, Historic England and Natural England), this screening report indicates that an Appropriate Assessment under the Habitats Regulations is not required



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