

West Midlands Area – Guidance Note for Local Planning Authorities

Applications for commercial, industrial and some residential development that could cause pollution – Guidance where we do not provide bespoke comments.

- This general pollution prevention advice applies to planning applications where we are not providing a bespoke response. In line with our Consultation Filter we are consulted on industrial and commercial activities should they be located upon Source Protection Zone 1 (SPZ1) and/or a new site requiring regulation by the Environment Agency under the Environmental Permitting Regulations (EPR), or changes to an existing EPR Permitted site. We are also consulted upon waste developments. Additionally, we are a statutory consultee on applications with a formal Environmental Impact Assessment (EIA) (Schedule 1 & 2 development).
- There may also be instances where we will provide comment, either bespoke or via Standing Advice, based on environmental constraints on the site (flood risk for example) for a range of development types.
- For those applications that are not EIA, not within SPZ1, fall under the threshold for regulation by the Environment Agency, or we would not otherwise comment, the following information may assist when the Planning Authority is considering the proposed development.
- This advice sits alongside our associated agriculture guidance note.

General Pollution Control: Developers should incorporate pollution prevention measures to protect ground and surface water. Previous Pollution Prevention Guidance maintained by the Environment Agency has been withdrawn but is still available in the *national archives* at: <https://www.gov.uk/government/collections/pollution-prevention-guidance-ppg>

We would refer you to the latest Pollution Prevention Guidance targeted at specific activities, available at: <https://www.gov.uk/guidance/pollution-prevention-for-businesses>

Storage of Materials / Chemicals / Oil Likely to Cause Pollution, Including Refuelling Facilities: To reduce the risk of pollution to the water environment for any proposal that involves the storage of fuel, oil, chemicals etc, developers should adhere to the following design criteria:

- Any facilities, above ground, for the storage of oils, fuels, chemicals etc should be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound should be at least equivalent to the capacity of the tank plus 10%. All filling points, vents, gauges and sight glasses must be located within the bund. The drainage system of the bund should be sealed with no discharge to any watercourse, land or underground strata. Associated pipework should be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets should be designed to discharge downwards into the bund.
- Appropriate procedures, training and equipment should be provided for the site to adequately control and respond to any emergencies including the clean-up of spillages, to prevent environmental pollution from site operations.

Surface Water Drainage: Drainage systems that are appropriately designed and well maintained will help to protect the water environment from pollution. For industrial, waste or commercial activities in particular, developers should adhere to the following design criteria:

- Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hard standings susceptible to

oil contamination should be passed through an oil interceptor or series of oil interceptors. The interceptor(s) should be designed and constructed to have a capacity compatible with the area being drained, should be installed prior to the occupation of the development and should thereafter be retained and maintained throughout the lifetime of the development. Clean roof water, vehicle washdowns and detergents should not be passed through the interceptor.

- Vehicle loading or unloading bays and storage areas involving chemicals, refuse or other polluting matter should not be connected to the surface water drainage system.
- All cleaning and washing operations should be carried out in designated areas isolated from any surface water system and only drain to the foul drainage system or sealed system. The area should be clearly marked and a kerb surround is recommended.

Waste Management: The CL:AIRE Definition of Waste: Development Industry Code of Practice (version 2) provides operators with a framework for determining whether or not excavated material arising from site during remediation and/or land development works are waste or have ceased to be waste. Under the Code of Practice:

- excavated materials that are recovered via a treatment operation can be re-used on-site providing they are treated to a standard such that they are fit for purpose and unlikely to cause pollution
- treated materials can be transferred between sites as part of a hub and cluster project
- some naturally occurring clean material can be transferred directly between sites

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically in line with British Standard BS EN 14899:2005 'Characterisation of Waste - Sampling of Waste Materials - Framework for the Preparation and Application of a Sampling Plan' and that the permitting status of any proposed treatment or disposal activity is clear. If in doubt, the Environment Agency should be contacted for advice at an early stage. If the total quantity of hazardous waste material produced or taken off-site is 500kg or greater in any 12 month period, the developer will need to register with us as a hazardous waste producer.

We recommend that developers should refer to:

- the position statement on the Definition of Waste: Development Industry Code of Practice
- GOV.UK <https://www.gov.uk/topic/environmental-management/waste>

Contaminated soil that is (or must be) disposed of is waste. Therefore, its handling, transport, treatment and disposal are subject to waste management legislation, which includes:

- Duty of Care Regulations 1991
- Hazardous Waste (England and Wales) Regulations 2005
- Environmental Permitting (England and Wales) Regulations 2016
- The Waste (England and Wales) Regulations 2011

Treating waste may require an exemption or an environmental permit. Please contact our National Customer Contact Centre for further information and guidance prior to commencing any treatment.

Environmental Permitting: Some industrial, waste or commercial activities will require an Environmental Permit (EP) under the Environmental Permitting (England and Wales) Regulations 2016. In circumstances where an activity/operation meets certain criteria, an exemption from permitting may apply, more information on exempt activities can be found here: <https://www.gov.uk/guidance/register-your-waste-exemptions-environmental-permits>

EPs are separate to the planning process. Paragraph 188 of the National Planning Policy Framework advises that: “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.” There is no guarantee that a permit will be granted. Applicants / operators should contact our National Permitting Service on 03708 506 506 for pre-permit application discussions. Applicants may wish to ‘parallel track’ their planning and permit applications. This can help to identify issues at an early stage and avoid the need for amendments to the planning application post-permission. Pre-app discussion with the applicant, planning authority and ourselves is advised. (Pre-app discussions are generally charged for.)

Ground Source Heating and Cooling Systems (GSHC): The Environment Agency considers that the most sustainable type of GSHC system, or group of systems, balances heating and cooling demand across the year. For example the system should provide cooling in summer and heating in winter in equal proportions. This will avoid unacceptable heating of the ground or groundwater. GSHC systems can, in some circumstances, have negative impacts on the environment or on other users of water. There are two types of GSHC systems:

- Closed loop – these are not regulated by the Environment Agency (however, they must not leak circulation fluid. Non-hazardous pollutants should be used as a precaution).
- Open loop – these are regulated by the Environment Agency. We would assess any relevant proposals and seek to control these through our regulation of such under the Environmental Permitting Regulations (EPR).

We would expect to be consulted upon open and closed loop GSHC proposals on land potentially affected by contamination (e.g. landfills, where a high risk previous use, in line with our Groundwater and Contaminated Land way of working) or in a SPZ1.

Outside of these areas, and to assist all proposals, we recommend following the advice and good practice guidance available via: [Ground Source Heat Pump Association | GSHPA](#) This details the environmental risks of all types of schemes and how these can and should be mitigated. The Environment Agency will require a risk assessment for both the abstraction and discharge from the schemes it regulates. An environmental permit is not required to construct or operate a closed loop system. However, if the system uses hazardous substances the Environment Agency will, if necessary, serve a notice to prevent pollution. It is strongly recommended that closed loop systems do not use hazardous substances. It is the developer’s responsibility to consider the fact that the ground and groundwater can eventually warm or cool to a point where a GSHC system may not operate efficiently. The developer should also consider the impact of their system on the ground and groundwater, such as causing ground instability or groundwater flooding throughout the lifetime of the scheme. Developers should also be aware that even when schemes are not regulated they may be liable for any pollution resulting from their activity or impacts on third party assets.

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Contact: Environment Agency, Sustainable Places Team, West Midlands Area.