

REPORT TO: CITY DEVELOPMENT COMMITTEE – 22 SEPTEMBER 2014

REPORT ON: DUNDEE LOCAL DEVELOPMENT PLAN - SUPPLEMENTARY GUIDANCE ON AIR QUALITY AND LAND USE PLANNING

REPORT BY: DIRECTOR OF CITY DEVELOPMENT

REPORT NO: 332-2014

1 PURPOSE OF REPORT

- 1.1 This report summarises the representations received to the proposed Supplementary Guidance on Air Quality Land Use Planning from the period of public consultation. It also seeks approval of the proposed modifications to the wording of the guidance in response to the representations.
- 1.2 The summary of issues raised and proposed modifications are attached as Appendix 1. Associated documents have been circulated to the Group Leaders, Bailie Scott, Councillor Macpherson and Bailie Borthwick.

2 RECOMMENDATION

- 2.1 It is recommended that the Committee:
- a notes the summary of the issues raised in the representations received to the proposed Supplementary Guidance. Also, that they note the response to these by the Council and approve the proposed modifications as set out in Appendix 1;
 - b agrees the adoption of the Supplementary Guidance following completion of the required pre-adoption procedures; and
 - c remits the Director of City Development to submit a copy of the proposed Supplementary Guidance to Scottish Ministers together with the relevant statements as required by the Town and Country (Development Planning) (Scotland) Regulations 2008.

3 FINANCIAL IMPLICATIONS

- 3.1 There are no financial implication arising as a result of this report.

4 BACKGROUND

- 4.1 Reference is made to Item III (Report 184-2014 refers) of the City Development Committee held on 21 April 2014 where it was agreed to approve a 6 week period of consultation on the draft supplementary guidance on Air Quality and Land Use Planning.
- 4.2 Interested parties including other statutory bodies, private and public parties, community groups and the general public were invited to consult on the document which was made available to view from 12 May to 30 June 2014. Representations were received to the draft supplementary guidance from Historic Scotland, Homes for Scotland, Scottish Environment Protection Agency, Tactran, Scottish Water, Scottish Natural Heritage and Forth Ports.
- 4.3 All of the respondees welcomed the provision of the proposed supplementary guidance on Air Quality and Land Use Planning. No changes to the guidance were requested by Historic Scotland, Homes for Scotland, Tactran and Scottish Water. Some rewording of sections of the guidance was requested by the Scottish Environment Protection Agency, Scottish Natural Heritage and Forth Ports. The points raised in the representations and the responses to these are set out in Appendix 1. The representations received have helped to clarify particular sections of the proposed guidance. Where suggested changes have not been accepted an explanation for this has been provided. Most of the requested amendments to

the guidance have been accepted and the proposed modifications to the wording are set out in Appendix 1.

5 POLICY IMPLICATIONS

- 5.1 This Report has been screened for any policy implications in respect of Sustainability, Strategic Environmental Assessment, Anti-Poverty, Equality Impact Assessment and Risk Management. The major issues identified are:
- a the Strategic Environmental Assessment (SEA) is a legal requirement under the Environmental Assessment (Scotland) Act 2005 that applies to all qualifying plans, programmes and strategies, including policies (PPS);
 - b the matters presented in this report were considered under the Environmental Assessment (Scotland) Act 2005 and the required pre-determination screening has been undertaken under Section 9 of the Act. The screening identified that the PPS will have no significant environmental effects and the SEA Gateway is in agreement. The SEA Determination Statement of Reasons has been circulated to the Lord Provost, Depute Lord Provost and all Group Secretaries; and
 - c a Habitats Regulations Appraisal in accordance with the Conservation (Natural Habitats) Regulations 1994, as amended requires that an Appropriate Assessment be undertaken where a land use plan is likely to have significant effects on a European Site (either alone or in combination with other plans or projects). The Air Quality and Land Use Planning Supplementary Guidance is concerned with the air quality impact associated with development but does not in itself lead to development or other changes. It is therefore considered that the Supplementary Guidance will have no significant effect on any European Site. Accordingly, appropriate assessment has not been undertaken during the preparation of the Supplementary Guidance.

6 CONSULTATIONS

- 6.1 The Chief Executive, the Director of Corporate Services and Head of Democratic and Legal Services have been consulted and are in agreement with the contents of this report.

7 BACKGROUND PAPERS

- 7.1 None.

Mike Galloway
Director of City Development

Gregor Hamilton
Head of Planning

GH/GSR/KM

11 September 2014

Dundee City Council
Dundee House
Dundee

APPENDIX 1

SUMMARY OF COMMENTS RECEIVED FROM CONSULTATION ON DRAFT SUPPLEMENTARY GUIDANCE ON AIR QUALITY AND LAND USE PLANNING

Comment Received	DCC Response	Action/Proposed Modification of SG
Section 1 - Introduction		
<p>Forth Ports Ltd</p> <ul style="list-style-type: none"> - Paragraph 1.1: "Statute and national planning policy do not place responsibility on Applicants seeking planning permission to maintain or improve air quality." 	<p>Agreed.</p>	<p>Delete first sentence of paragraph 1.1 and replace with: "Dundee City Council has a responsibility to ensure that appropriate standards of air quality are maintained or improved as the city is developed and regenerated."</p>
<p>Forth Ports Ltd</p> <ul style="list-style-type: none"> - Paragraph 1.4 refers to a "TA". - Need clarity on what will trigger the necessity to update the Technical Guide. 	<p>Noted. This should make reference to the Technical Guide ie "TG".</p> <p>The Technical Guide may require to be updated over time in response to changes in Government policy or targets. It is not possible to indicate when these will take place. The emphasis is that the guide will be kept up to date to ensure that it is relevant and in line with policy requirements or specific targets.</p>	<p>Replace "TA" with "TG".</p> <p>Delete last sentence in paragraph 1.4 and replace with: "It should be noted that the TG is a supporting document that may be subject to modification over time to reflect changes in Government Policy or targets or when alteration of the technical requirements prove necessary."</p>
Section 2 - Policy Context		
<p>Forth Ports Ltd</p> <ul style="list-style-type: none"> - Paragraph 2.2: suggest altering "particularly with regard to air quality" to "including air quality." 	<p>Agree. The Plan gives no hierarchy to important environmental considerations.</p>	<p>Amend wording of sentence in Paragraph 2.2 from "particularly with regard to air quality" to "including air quality."</p>

Comment Received	DCC Response	Action/Proposed Modification of SG
Section 4 - Main Sources of Pollution in Dundee		
<p>Forth Ports Ltd</p> <ul style="list-style-type: none"> - Paragraph 4.2: not clear whether all on the list of locations are of particular concern or only some of them. - Information should be provided on levels and type of pollution. 	<p>It is considered that Paragraph 4.2 is clear and states that all locations in the list are either exceeding or in danger of exceeding target pollution levels and are of concern.</p> <p>The levels of pollutants may be subject to change and data provided in the SG would therefore be out of date very quickly.</p>	<p>No change.</p> <p>No change.</p>
<p>Forth Ports Ltd</p> <ul style="list-style-type: none"> - Paragraph 4.3: applicants and their advisors need to know where the other areas of concern are. 	<p>Comment noted. The wording will be redrafted to provide greater clarification.</p>	<p>Paragraph 4.3 first sentence deleted and replaced with: "Whilst there are known areas where air quality is a concern in the city, monitoring of air quality may identify further areas in the future."</p>
Section 5. Land Use Proposals with Potential Air Quality Issues.		
<p>SEPA</p> <ul style="list-style-type: none"> - Paragraph 5.1 recommends that the explanation of cumulative impacts should advise that problems may appear at locations that are a considerable distance from the new development. 	<p>Agreed. Amend the paragraph to take this into consideration.</p>	<p>Insert new sentence at end of Paragraph 5.1: "Cumulative impacts may also effect air quality at locations that are a considerable distance from the new development."</p>
<p>Forth Ports Ltd</p> <ul style="list-style-type: none"> - Paragraph 5.1 infers that air quality is a material consideration only under specific circumstances. 	<p>The current wording will be amended to clarify the position of air quality as a material consideration.</p>	<p>Paragraph 5.1 to be amended to: "Air quality may be a material consideration in determining applications for planning permission dependant on the nature, scale and location of the proposed development."</p>

Comment Received	DCC Response	Action/Proposed Modification of SG
Section 6 - Pre-Planning and Planning Application Guidance		
<p>Forth Ports Ltd</p> <ul style="list-style-type: none"> - Section should include advice that it will not be necessary to carry out the pre-application process where an EIA screening and scoping takes place. 	<p>The guidance does not require that an applicant carry out the pre-application process where screening or scoping for an EIA is being carried out. It is considered that inclusion of certain exceptions in the guidance is not necessary as these would be addressed in the initial pre-application discussions.</p>	<p>No change.</p>
<ul style="list-style-type: none"> - Paragraph 6.5 Figure 1 indicates that the scope of the air quality assessment will be reconsidered once the assessment has been carried out. There should be no need for this if scoped accurately at the outset. Potentially time wasting, costly and undermining developer and applicant confidence. 	<p>It is not the intention to require a re-scoping of the assessment at this stage in the process. However, there may be a situation where the air quality assessment as submitted has not been sufficient to address the particular concerns raised and further work may be required.</p>	<p>In Figure 1 delete “Is scope of assessment carried out sufficient – no” and insert “Is the air quality assessment report sufficient – no”.</p>
Section 9 - Mitigation Measures that may be Required to Reduce the Air Quality Impact		
<p>SNH</p> <ul style="list-style-type: none"> - Section 9 mitigation measures should include more specific reference to design solution that support modal shift through green networks– include reference to these in the SG. 	<p>Welcome the suggestion.</p>	<p>Insert at end of paragraph 9.2 “Mitigation measures can also be achieved through design solutions and the support of modal transport shifts through green networks”.</p>
General Comments		
<p>Tactran</p> <ul style="list-style-type: none"> - Broadly supports the approach taken in the supplementary guidance. 	<p>Support for the supplementary guidance is noted.</p>	<p>None.</p>

Comment Received	DCC Response	Action/Proposed Modification of SG
SEPA - SG is of a very good standard and should assist the Council in tackling air quality issues affecting Dundee City; offers clear guidance to developers and applicants on their responsibilities and requirements.	Support for the supplementary guidance is noted.	None.
SEPA - Should be made clear within the SG that the Technical Guide is available.	Reference to the Technical Guide is made in paragraph 1.4 of the guidance.	No change.
Historic Scotland - Welcomes the preparation of this supplementary guidance and have no detailed comments to offer	Support for the supplementary guidance is noted.	None.
Scottish Water - The document has been reviewed and it is not necessary to comment on the Draft. - Supplementary Guidance – Air Quality and Land Use Planning.	Noted.	None.
Homes for Scotland - We have no comments on the Air Quality & Land Use Planning draft SG.	Noted.	None.