

Issue 18		Environmental Protection and Public Safety	
Development Plan reference:		Environmental Protection and Public Safety Policies, page 50-60 EP4 - Health and Safety Consultation Zones, page 54 EP8 - Noise Pollution, page 56 EP9 - Waste Management Infrastructure, page 57 EP10 - Management of Inert and Construction Waste, page 58 EP11 - Air Quality Management Areas, page 58 EP12 - Contaminated Land, page 60 Binn Farm, page 94	Reporter: Hugh M Begg
Body or person(s) submitting a representation raising the issue (including reference number):			
Lynne Palmer (00239) Helen Borland-Stroyan (00826) Councillor Michael Barnacle (02633) Scottish Environment Protection Agency (03194) Scottish Natural Heritage (05211) Abernethy & District Community Council (09215) SSE plc (09311) Shell UK Ltd (09313) Network Rail (09414) Dr Robert Walker (09986) BP North Sea Infrastructure (09994) SITA UK (10022) Homes for Scotland (10214)			
Provision of the development Plan to which the issue relates:		Environmental protection and public safety policies (that are not already dealt with elsewhere) including Health and Safety consultation zones, noise pollution, waste management, air quality management areas and contaminated land policy.	
Planning authority's summary of the representation(s):			
<u>General</u> Network Rail (09414/2/002): The importance of level crossing safety warrants a new policy to be included in Chapter 3.6 Transport and Accessibility and 3.11 Environmental Protection and Public Safety specifically addressing level crossing safety matters; or alternatively an amendment to Policy TA1 and a new policy in Chapter 3.11 Environmental Protection and Public Safety.			
<u>Consultation Zones for Hazardous Installations (Policy EP4)</u> BP North Sea Infrastructure (09994/1/001): Ensure that planning applications within consultation zones for hazardous installations are determined in consultation with the facility's operators and owners so that risk to people's safety is not increased. This is in line with Heath and Safety Executive best practice, and Scottish Government Reporters' approach in respect of other LDPs (Health and Safety Executive best practice referred to but relevant document not named).			

Shell UK Ltd (09313/3/001): General support for the policy however consultation should also be carried out with the facility's owners and operators. This will inform pipeline operators of development proposals that may impact on the pipeline network. Consultation zones should be shown on settlement maps and proposed development in these zones must be assessed against Planning Advice of Development near Hazardous Installations guidelines. Aberdeen City Council Schedule 4 105 Policy B15 (S4\_Doc\_193) and Shell MIR representation (S4\_Doc\_192).

#### Noise Pollution (Policy EP8)

Dr Robert Walker (09986/1/001): The policy provides insufficient detail on noise pollution, in particular measures that are indicated in PAN 1/2011 Planning and Noise (S4\_Doc\_195) could have been considered for inclusion.

SSE plc (09311/1/009): There is a minor tension between the requirements of this policy and the requirements of Working Group on Wind Turbine Noise, 1996 "The assessment and rating of noise from wind farms (ETSU R-97)" (S4\_Doc\_194) that applies to wind energy development. For example, under the terms of the proposed policy, there could be a presumption against a wind farm even if it meets the standards set out in ETSU because a commercial wind farm could be considered as a development that generates high levels of noise. Should such a development be sited within proximity of a settlement or grouping of residential dwelling houses, then there could be an initial presumption against the consenting of the wind farm even if it meets the standards set out in ETSU. Whilst it is recognised that this policy is a general development policy that is intended to apply to all forms of development, It is recommended that the policy is re-drafted to recognise that there is legislation that governs permissible noise emissions from development proposals. The LDP should not seek to provide more stringent policy tests than this.

#### Waste Management Infrastructure (Policy EP9)

Abernethy & District Community Council (09215/1/001): In the first sentences the word 'any' is used twice referring to activity and process. While this is followed by a list of criteria it is felt the word 'any' is too vague and all encompassing a term and should be removed for clarity. And criterion (l) of the policy needs to indicate how any heat generated would be used and not wasted to comply with Scotland's Zero Waste Plan Scottish Government, 2010 "Scotland's Zero Waste Plan" (Core\_Doc\_042) and the Plan's sustainable development policy. Support of the policy cannot be claimed if there is to be no proper use of heat and/or energy. More than a paper demonstration of possible or potential uses that could be explored is required.

SITA UK (10022/1/001): General support, however, it is inappropriate to require restoration bonds where these overlap with Scottish Environment Protection Agency's regulatory regime Scottish Government, 2000 "Pollution Prevention and Control (Scotland) Regulations" SSI 2000/323 (Core\_Doc\_121). Clarification also needed that restoration bonds only relate to landfilling activities and not to other waste treatment and recycling facilities. Also, criterion (k) is confusing in that it requires satisfactory mitigation measures to be proposed for any unacceptable impacts arising from a list of both emissions and resources.

SITA UK (10022/2/001): Support the presumption in favour of retention of existing waste management sites which support the delivery of zero waste Scottish Government, 2010 "Scotland's Zero Waste Plan" (Core\_Doc\_042) but would suggest that the policy be worded so as to safeguard all such existing sites rather than only those key sites identified in the Plan. Such support should also be extended to cover changes to existing

sites to accommodate new recycling/treatment initiatives in the future, as waste management is a continually evolving business and to assist movement of waste treatment and handling up the waste hierarchy.

Scottish Environment Protection Agency (03194/10/001): The presumption in favour of retention of waste management sites is welcomed. However all waste management facilities work together in a waste infrastructure network, for example landfill facilities will continue to be required as there will always be waste from which no further value or resource can be recovered and therefore will need to be disposed of. Therefore, all waste management facilities, from landfill facilities right up to neighbourhood recycling points, are required and should be retained as they all have a role to play in delivering the aims of the Zero Waste Plan. To be consistent therefore with Scottish Government, 2010 "Scotland's Zero Waste Plan" (Core\_Doc\_042), it is recommended that the word key is removed, and instead refer to the retention of existing and consented waste management sites.

Scottish Environment Protection Agency (03194/11/001): We recommend that the wording of criterion (i) is expanded to identify that employment land allocated under Policy ED1 is appropriate for waste management uses. As written, the policy simply refers to '*industrial areas*'; and in the following criterion (j) '*compatible with surrounding development and the underlying land allocation where this is not employment*'. The Zero Waste Plan Annex B paragraph 5.6 Scottish Government, 2010 "Scotland's Zero Waste Plan" (Core\_Doc\_042) requires development plans to safeguard all active and consented waste management sites and identify appropriate locations for all waste management facilities, where possible on specific sites or supported by a policy framework to facilitate development; and paragraph 5.9 provides a clear range of locations where development plans should consider appropriate for waste management uses which includes Industrial and Employment areas. It is therefore appropriate to locate waste management facilities on land allocated by Policy ED1.

Ms Lynne Palmer (00239/1/001): Support for Policy EP9B, although suggests that a gas plasma plant or other facility will be required to deliver zero waste, and more recycling will be required to reduce landfill. Agrees that Supplementary Guidance is needed. Scottish Government, 2010 "Scotland's Zero Waste Plan" (Core\_Doc\_042)

Councillor Michael Barnacle (02633/1/021): Support for Policy EP9

#### Binn Farm

Abernethy & District Community Council (09215/2/001): There is insufficient information in the table at paragraph 5.1.7 (S4\_Doc\_802) for Binn Farm.

Abernethy & District Community Council (09215/10/001): All other inset maps have an accompanying page with reference to: Description, Spatial Strategy Considerations, and Infrastructure Considerations. However in the case of Binn Farm, there are 2 lines in paragraph 5.9.1 above the map, informing of very little. Insufficient information is provided.

Abernethy & District Community Council (09215/11/001): Inset map does not allow proper consideration because it is not the same as all the other inset maps. The Plan should clearly classify Binn Farm as more than employment land to fully reflect its use. The Plan fails to comply with statutory requirements because it does not contain a proper site assessment and report. A Master Plan incorporating transport assessment, landscape framework and environmental controls would also be beneficial.

SITA UK (10022/3/001): Support the identification of Binn Farm

Management of Inert and Construction Waste (Policy EP10)

Scottish Environment Protection Agency (03194/12/001): Supports the identification that industrial areas and brownfield land is considered appropriate for inert and construction waste. This is largely in line with guidance contained within the Zero Waste Plan Annex B paragraph 5.9 section 5 'Construction and Demolition Waste' (S4\_Doc\_196).

Scottish Natural Heritage (05211/25/010): In line with the outcome of the HRA and Appropriate Assessment processes it is considered prudent that the following criteria should be added to the policy on page 58 to ensure that there are no significant impacts on the qualifying interests of European sites as a result of the management and processing of inert and construction waste:

*'(e) They will not result in adverse impacts, either individually or in combination, on the integrity of a European designated site(s).'*

Zero Waste Plan Annex B paragraph 5.9 section 5 "Construction and demolition waste" (S4\_Doc\_196)

Air Quality Management Areas (Policy EP11)

Lynne Palmer (00239/2/001): Perth's Air Quality Management Area (AQMA) does not cover the waste water treatment works at Rhind Road. In addition, the Air Quality Management Area will require enlargement to accommodate incinerators and possible new plants like a gas plasma plant or other facility.

Helen Borland-Stroyan (00826/1/001): Support for Policy EP11

Scottish Environment Protection Agency (03194/13/001): Support for this policy because it identifies the Air Quality Management Area and will ensure that impacts on air quality from new development in this sensitive area are mitigated. This will help minimise any additional detrimental impact on air quality, and receptors of the air quality in this area, going forward.

Contaminated Land (Policy EP12)

Homes for Scotland (10214/1/025): This policy is currently silent with regards sites in the established supply that are on contaminated land. Any sites that are currently constrained due to the excessive costs of clean up should be identified. Their remediation can be encouraged and supported through action plans, flexibility over developer contributions and affordable housing provision, or other incentives.

Scottish Natural Heritage (05211/25/011): In line with the outcome of the Habitats Regulation Assessment and Appropriate Assessment processes and in order to ensure no adverse impact on the integrity of a European site(s), after *'that appropriate remediation measures can be incorporated in order to ensure the site/land is suitable for the proposed use...'* at the end of paragraph 2 of Policy EP12 (page 60), add the following additional text:

*'and in order to ensure that contamination does not adversely affect the integrity of a European designated site(s).'*

**Modifications sought by those submitting representations:**

General

Network Rail (09414/2/002): New transport policy on level crossing safety is suggested

and should confirm the following:

- '1. Perth & Kinross Council have a statutory responsibility under planning legislation to consult the statutory rail undertaker where a proposal for development is likely to result in a material increase in the volume or a material change in the character of traffic using a level crossing over a railway;*
- 2. As a first principle, Network Rail would seek to close level crossings where possible. Network Rail will not allow new level crossings except in exceptional circumstances whereby it may be replacement or relocation.*
- 3. Any planning application which may increase the level of pedestrian and/or vehicular usage at a level crossing should be supported by a full Transport Assessment assessing impact and mitigation measures including assessment of closure; and*
- 4. The developer is required to fund any qualitative improvements required to the level crossing identified as a direct result of the development proposed.'*

Alternatively, Network Rail (09414/2/002) suggests another solution that would also be acceptable. Policy TA1 should be amended to include for level crossings as follows:

*'New development Proposals should:*

*(b) incorporate appropriate mitigation on site and/or off site, provided through developer contributions where appropriate, which might include improvements and enhancements to the walking/cycling network and public transport services including railway and level crossings, road improvements and new roads;*

*Development for significant travel generating uses in locations which would encourage reliance on the private car will only be supported where:*

*(c) it would not have a detrimental effect on the capacity or safety of the strategic road and/or rail network including level crossings'.*

A statement should also be included in Supplementary Guidance that will explain how a Transport Assessment will assess impact and appropriate mitigation from development proposals on level crossings; and a new Environmental Protection and Public Safety policy should also be included, the terms of which are not put forward.

#### Consultation Zones for Hazardous Installations (Policy EP4)

BP North Sea Infrastructure (09994/1/001): Add *'In determining planning applications for development within consultation zones for hazardous installations, the Council will consult with and take full account of advice from the facility's operators and owners and will seek to ensure that any risk to people's safety is not increased.'*

Shell UK Ltd (09313/3/001): Policy EP4 reworded:

*'In determining planning applications for development within the Pipeline Consultation Zones identified on the proposals and insert maps, the Council will seek the advice of the Health and Safety Executive and the facility's operators and owners. The Council will also seek the advice of the Health and Safety Executive and the facility's operators and owners on the suitability of any proposals for a new notifiable installation within the Plan area or any proposal within the consultation zone of any other notifiable installation.'*

#### Noise Pollution (Policy EP8)

Dr Robert Walker (09986/1/001): Policy should be modified to include a reference to new Supplementary Guidance for preventing and limiting the adverse effects of noise pollution created by present and future developments.

SSE plc (09311/1/009): Amend policy to allow permissible noise emissions from wind farm development proposals as set out in Working Group on Wind Turbine Noise, 1996 "The assessment and rating of noise from wind farms (ETSU R-97)" (S4\_Doc\_194).

Waste Management Infrastructure (Policy EP9)

Abernethy & District Community Council (09215/1/001): Removal of “any” from the first sentence to remove ambiguity; rewrite criterion (l) to describe how heat will be utilised.

SITA UK (10022/1/001): Policy to make clear that restoration bonds should not be required where these overlap with Scottish Environment Protection Agency’s regulatory regime, and the policy should be amended to clarify that restoration bonds should only relate to landfilling activities and are unnecessary in respect of other waste treatment and recycling facilities. In respect of paragraph (k) of the policy, which is unclear SITA suggests that if these are to be listed they should be divided into environmental elements upon which the impacts are to be considered (e.g. water resources, built heritage) and emissions, the impact of which are to be considered/mitigated (e.g. leachate, noise).

SITA UK (10022/2/001): New wording for Policy EP9A as follows:

*‘There will be a presumption in favour of retention of existing waste management sites which support the delivery of zero waste and changes to those sites that again support the delivery of zero waste’.*

Scottish Environment Protection Agency (03194/10/001): Use ‘existing and consented’ in place of ‘key’.

Scottish Environment Protection Agency (03194/11/001): Amend policy to identify employment land (Policy ED1 sites) as locations appropriate for waste management facilities.

Binn Farm

Abernethy & District Community Council (09215/2/001): More information on Binn Farm should be included in the table at paragraph 5.1.7 (S4\_Doc\_802).

Abernethy & District Community Council (09215/10/001): Amend Plan to provide appropriate and accurate information in respect of Binn Farm.

Abernethy & District Community Council (09215/11/001): Amend Plan to provide appropriate and accurate information to allow consideration.

Management of Inert and Construction Waste (Policy EP10)

Scottish Natural Heritage (05211/25/010): In line with the outcome of the HRA process, add the following criterion to the policy on page 58 to ensure that there are no significant impacts on the qualifying interests of European sites as a result of the management and processing of inert and construction waste:

*‘(e) They will not result in adverse impacts, either individually or in combination, on the integrity of a European designated site(s).’*

Air Quality Management Areas (Policy EP11)

Lynne Palmer (00239/2/001): Enlarge Perth Air Quality Management Area.

Contaminated Land (Policy EP12)

Homes for Scotland (10214/1/025): Sites in the established supply that are on contaminated land and are constrained by clean up costs should be identified in this policy and action plans to encourage and support their remediation are required. This might include flexibility of level of developer contributions and affordable housing provision, or other incentives to remove blight.

Scottish Natural Heritage (05211/25/011): In line with the outcome of the Habitats Regulation Assessment and Appropriate Assessment processes and in order to ensure no adverse impact on the integrity of a European site(s), after *'that appropriate remediation measures can be incorporated in order to ensure the site/land is suitable for the proposed use...'* at the end of paragraph 2 of Policy EP12 (page 60), add the following additional text:

*'and in order to ensure that contamination does not adversely affect the integrity of a European designated site(s).'*

### Summary of responses (including reasons) by planning authority

#### General

Network Rail (09414/2/002): The issues are noted and it is recognised that the railway network contributes to the aims and objectives of the LDP. However, the matters raised may be more properly addressed through the Development Management process.

No modification is proposed to the Plan.

However, if the Reporter is so minded then a new Policy to be numbered EP15 could added in order to improve the safety of the railway and the public:

*'Perth & Kinross Council have a statutory responsibility under planning legislation to consult the statutory rail undertaker where a proposal for development is likely to result in a material increase in the volume or a material change in the character of traffic using a level crossing over a railway. As a first principle, Network Rail would seek to close level crossings where possible. Network Rail will not allow new level crossings except in exceptional circumstances whereby it may be replacement or relocation. In all instances:*  
*(i) Any planning application which may increase the level of pedestrian and/or vehicular usage at a level crossing should be supported by a full Transport Assessment assessing impact and mitigation measures including assessment of closure; and*  
*(ii) The developer is required to fund any qualitative improvements required to the level crossing identified as a direct result of the development proposed.'*

As suggested by the Respondent.

Alternatively, the respondent has suggested that Policy TA1 could be amended to include the following text highlighted in bold:

*'... New development Proposals should:*

*(b) incorporate appropriate mitigation on site and/or off site, provided through developer contributions where appropriate, which might include improvements and enhancements to the walking/cycling network and public transport services including railway and level crossings, road improvements and new roads;*

*.... Development for significant travel generating uses in locations which would encourage reliance on the private car will only be supported where:*

*(c) it would not have a detrimental effect on the capacity or safety of the strategic road and/or rail network including level crossings...'*

#### Consultation Zones for Hazardous Installations (Policy EP4)

BP North Sea Infrastructure (09994/1/001); Shell UK Ltd (09313/3/001): The Council recognises the importance of consultation zones for pipelines and other notifiable installations, and of the need to ensure that appropriate development takes place in the vicinity. Consultation zones are shown on the Proposals Map. The Council consults the

Health and Safety Executive when determining planning and other applications for consent within consultation zones. The Council carries out best practice recommended by the Health and Safety Executive and additionally consults facility operators and owners to ensure that any risk to people's safety is not increased and the pipeline is protected. It is considered that no modification to the policy is required as the Council will continue to operate best practice in this respect.

No modification is proposed to the Plan.

However, if the Reporter is so minded the following text could be used to replace the text in the existing policy:

*"In determining planning applications for development within the Pipeline Consultation Zones identified on the proposals, insert maps and Appendix 3, the Council will seek and take full account of the advice from the Health and Safety Executive and the facility's operators and owners.*

*The Council will also seek the advice of the Health and Safety Executive and the facility's operators and owners on the suitability of any proposals for a new notifiable installation within the Plan area or any proposal within the consultation zone of any other notifiable installation.'*

The Council would be comfortable with this modification because it would not have any implications on other policies in the LDP.

#### Noise Pollution (Policy EP8)

Dr Robert Walker (09986/1/001): It is considered that modification to the policy is not required because the policy sufficiently covers the development planning requirements of PAN 1/2011 Planning and Noise (paragraphs 11-13) (S4\_Doc\_806). In addition, the effects of noise have been considered within the strategic environmental assessment of the Main Issues Report. The PAN also suggests that mitigation measures are more appropriately implemented through Development Management process by the use of planning conditions and/or a legal agreement (paragraph 21). Consequently, there is no need to repeat this in the LDP. The Policy cannot be made to apply to present developments however noise pollution from present developments is covered elsewhere by Environmental Health legislation.

No modification is proposed to the Plan.

SSE plc (09311/1/009): The Council recognises the importance of wind energy development but considers that a specific amendment to accommodate noise emissions for wind farms is not required within the LDP because this is an area of planning that is effectively assessed through the Development Management process. Working Group on Wind Turbine Noise, 1996 "The assessment and rating of noise from wind farms (ETSU R-97)" (S4\_Doc\_194) is already used to regulate wind farm noise in planning applications and effective control is achieved through planning conditions and/or a legal agreement. The detail of this issue is more appropriately dealt with through Supplementary Guidance on renewable energy.

No modification is proposed to the Plan.

#### Waste Management Infrastructure (Policy EP9B)

Abernethy & District Community Council (09215/1/001): The proposed removal of the



word ‘any’ would not make sense and, in the absence of a list or further definitions, it would not be clear which activities and processes would be supported or unsupported by the policy. And in relation to criterion (l), the policy already asks for the viability of heat and/or electricity generation to be fully explored and an amendment to the policy is therefore not considered necessary. Paragraph 4.9 Annex B of Scotland’s Zero Waste Plan (S4\_Doc\_432) requires planning authorities and developers to consider sites that have the potential to maximise the potential for the re-use of waste heat through co-location with potential heat users.

No modification is proposed to the Plan.

SITA UK (10022/1/001): The policy should not be amended because restoration bonds are only required where appropriate. The suggestion to rewrite criterion (k) is noted and accepted.

If the Reporter is so minded it is recommend that the following text is inserted to replace the existing text:

*‘... (k) the proposal demonstrates satisfactory mitigation measures for any unacceptable impacts arising from the development with respect to emissions including: air, noise, odour, dust, litter, vermin, birds, insects, leachate and surface water. It will also be necessary to mitigate any visual impact, traffic impact, impact on the natural or built heritage, and the water resource. Cumulative impacts will also be considered; ...’*

The Council is comfortable with this modification because it would not have any implications on Policy EP9 or other policies within the LDP.

#### Waste Management Infrastructure (Policy EP9A)

SITA UK (10022/2/001): It is accepted that all waste management facilities have a role to play and as a consequence ‘key’ could be removed from the text in the first line of the policy.

If the Reporter is so minded it is recommend that the text is deleted and the Council would be comfortable with this modification as it would not have any implications on any other policies in the Plan.

Scottish Environment Protection Agency (03194/10/001): The issue raised is considered to be already covered by the existing wording of the policy.

No modification is proposed to the Plan.

However, if the Reporter is so minded to recommend that the proposed modification is adopted, the Council would be comfortable with this modification because it would not have any implications on Policy EP9 or other policies within the LDP.

Scottish Environment Protection Agency (03194/11/001): This issue is dealt with elsewhere and reference to the schedule 4 no 05 - Economic Development is highlighted for further information on this issue, where Scottish Environment Protection Agency (03194/1/001) comment on waste uses on employment and industrial sites.

#### Binn Farm

Abernethy & District Community Council (09215/2/001, 09215/10/001 & 09215/11/001): The issue raised is noted. Additional information regarding this issue was submitted by

Binn Eco Park after the close of the period of representations. This can be made available to the Reporter for consideration if requested and form the basis of a masterplan for the site.

However, it is suggested that the requirement to prepare a Masterplan for the site would address the concerns of the Community Council and provide the most up to date information from the developer/landowner including the waste management uses and any necessary changes to the site boundary once more detailed work is undertaken. The map in the Plan describes the extent of existing planning consents however if more land is required, this should be informed by Supplementary Guidance.

The Supplementary Guidance in the form of a masterplan could be Non-statutory or Statutory. If the latter the masterplan should cover (as minimum) the following matters: the uses to be accommodated on the site, the processes and technologies, the environmental effects and any mitigation necessary; the boundaries of the site, hours of working and traffic matters.

If the Reporter is so minded to recommend modifying the Plan to include a requirement for Supplementary Guidance to be prepared, the Council would be comfortable with this modification because it would not have any implications on other sites or other policies within the LDP.

#### Management of Inert and Construction Waste (Policy EP10)

Scottish Natural Heritage (05211/25/010): No change requested to the Plan. However the Habitats Regulations Assessment notes the policy contains no measures to ensure the protection of the qualifying interests of Natura 2000 sites for future proposals arising under this policy. It is considered that adding the following additional criteria to the list in Policy EP10 on page 58 would provide greater clarity and transparency:

*'They will not result in adverse impacts, either individually or in combination, on the integrity of a European designated site(s).'*

If the Reporter is so minded to recommend that the proposed modification is adopted, the Council would be comfortable with this modification as it would ensure consistency with other policies in the LDP, namely Policy NE1: International Nature Conservation Sites, where the potential to have an effect on a Natura site is possible.

#### Air Quality Management Areas (Policy EP11)

Lynne Palmer (00239/2/001): Modification to the existing Air Quality Management Area is a matter to be covered in any revision to the Air Quality Management Plan which will be done under separate legislation.

No modification is proposed to the Plan.

#### Contaminated Land (Policy EP12)

Homes for Scotland (10214/1/025): The remediation of contaminated land is covered by separate legislation and the Housing Land Audit is the appropriate place to consider the effectiveness of sites. This level of detail is not appropriate for the LDP.

No modification is proposed to the Plan.

Scottish Natural Heritage (05211/25/011): It is considered that amending Policy EP12 to incorporate the mitigation measures as set out in the Habitats Regulations Appraisal

(including Appropriate Assessment) of the Proposed Plan, and detailed in the previous section would provide greater clarity and transparency for applicants as to which settlements and in what circumstances the provisions of the Plan's Policy NE1: International Nature conservation Sites will apply, for proposals arising under these policies and would also set out what will be expected of them in making their planning application.

If the Reporter is so minded it is recommended that the following text is inserted to replace the existing text:

*'Consideration will be given to proposals for the development of contaminated land, as defined under Part IIA, Section 78A (2) of the Environmental Protection Act 1990, where it can be demonstrated to the satisfaction of the Council that appropriate remediation measures can be incorporated in order to ensure the site/land is suitable for the proposed use and in order to ensure that contamination does not adversely affect the integrity of a European designated site(s).'*

### **Reporter's conclusions:**

#### General

1. There is no need for the insertion of a new policy specifically addressing level crossing safety. It has been explained in connection with Issue 10 why Policy TA1B: New Development Proposals should be modified in the light of the concerns of Network Rail.

#### Policy EP4: Health and Safety Consultation Zones

2. There is no doubt that consultation zones should form part of the local development plan and that they are a material consideration in the determination of planning applications. Policy EP4 recognises these facts. However, given their importance from a health and safety point of view, there is some merit in further clarifying the approach of the council by modifying the text of the policy in line with the suggestions made by those who have submitted representations on this matter.

#### Policy EP8: Noise Pollution

3. PAN 1/2011: Planning and Noise confirms that development plans have an important role to play in helping to limit the overall number of people exposed to potential adverse effects of noise. Paragraphs 11 to 13 provide advice and information on relevant technical planning matters. Within that general framework Policy EP8: Noise Pollution sets out the council's approach in sufficient detail to provide an adequate context for the efficient and effective conduct of the process of development management with regard to noise pollution. It is a matter for the council to decide whether further detail would be helpful and be provided through the issue of supplementary guidance. However, it is pointed out at paragraph 14 of PAN 1/2011 that discussions with the planning authority prior to submitting an application will assist in deciding the level of detail required from an applicant in respect of noise. Supplementary guidance can be very helpful in structuring such discussions. Drawing these matters together, there is no need for a modification to this policy of the Proposed Plan.

4. Policy EP8 sets out the Council's approach to noise pollution attributable to all forms of new development. The terms of the policy do not incorporate an initial presumption against a wind farm which can meet the standards set out in the report of Working Group

on Wind Turbine Noise (1996). It is for the council to decide whether it would be helpful to provide further detail, through supplementary guidance on renewable energy, on how this general policy will be applied to particular applications for approval of proposed wind farms. Whether or not a particular application meets the terms of Policy EP8 and the required standards is a matter which can be dealt with as part of the development management process. In that context, the suggested noise limits set out in ETSU R-97 have been presented in a manner that makes them a suitable basis for noise related planning conditions or obligations between the developer of a wind farm and the council.

#### Policy EP9A: Existing Waste Management Infrastructure

5. The Council has made an unequivocal commitment to the aims of the Scottish Government's Zero Waste Plan (2010). Given the urgent need for the necessary network of waste management facilities to be put in place at appropriate locations there is some merit in including the phrase "*existing and consented*" within the text of the policy to replace the word "*key*". However, the policy is concerned with existing infrastructure and the Plan Settlement Maps within the Proposed Plan make reference only to "*Waste Management Sites*". Accordingly, in the interests of clarity and in order to conform with that approach, the word "*key*" should be deleted from the text of this policy and no other phrase inserted in its place.

#### Policy EP9B: New Waste Management Infrastructure

6. With regard to the introductory text, the use of the word "*any*" is clear and it is specific in its meaning. There is no need for a modification to the Plan.

7. Policy EP9B should demonstrate beyond any doubt that it is fully compliant with the requirements of Annex B of the Zero Waste Plan. With that in mind, the existing text should be deleted and replaced with appropriate wording.

8. As far as item (k) is concerned, the thrust of the representation is helpful and the existing text can usefully be modified to take that into account.

9. On item (l), the text, as it stands, does not indicate sufficiently clearly what is expected of the applicant. Greater clarity can be achieved by way of minor modifications.

10. With respect to the final paragraph of Policy EP9B there should be no doubt that the words "*Where appropriate*" are intended by the council to carry over into the following sentence. Complete clarity can be achieved by way of a minor modification.

#### Binn Farm

11. Binn Farm is noted in the table within paragraph 5.1.7 of the Proposed Plan as a Strategic Development Area which has been identified in TAYplan as contributing to the five year supply of employment land for the Perth Area. Paragraph 5.9.1 and the associated map does no more than show the extent of the existing planning permissions all of which are identified for waste management uses. It is perfectly understandable that there should be local concern about the future of a site of the considerable dimensions of Binn Farm. The council has acknowledged the concerns about the absence of detail within the Proposed Plan concerning this strategic site and indicated its intention to issue relevant supplementary guidance.

**Policy EP10: Management of Inert and Construction Waste**

12. An addition to the four criteria already listed within Policy EP10 could provide greater clarity and transparency in the Proposed Plan when read as a whole because it would ensure consistency with the wording of Policy NE1: International Nature Conservation Sites.

**Policy EP11: Air Quality Management Areas**

13. Policy EP11 is concerned with the impact of new development on areas identified as suffering degraded air quality. Modifications to the existing Air Quality Management Area are matters properly dealt with in any revisions to the Air Quality Management Plan that may be undertaken. They are not matters for the local development plan and, accordingly, there is no need for a modification to this policy.

**Policy EP12: Contaminated Land**

14. Policy EP12 makes clear that its first priority will be to prevent the creation of new contamination. It goes on from there to set out its approach to development which is proposed on sites, some or all of which are contaminated as that term is defined under the Environmental Protection Act 1990. PAN 33: Development of Contaminated Land (Revised October 2000) points out that the allocation of a site for a particular use does not in itself prove the suitability of a site for that purpose and goes on to note that only investigation by the developer or applicant can confirm this. The council's approach to that fact is set out in the third paragraph of the policy.

15. In response to a request for further information the council provided evidence which demonstrates that it completed a prioritisation of all potentially contaminated sites by 2012. Based on this information, a programme of inspection of this land is underway. A public register of contaminated land has been set up and maintained under the Contaminated Land (Scotland) Regulations 2000. None of the land inspected has met the statutory definition and, accordingly, it contains no entries. It follows that there are no sites identified in successive Housing Land Audits or elsewhere which are "*constrained due to the excessive costs of clean up*" as feared by Scottish Homes. Accordingly, there is no need for any modification to Policy EP12 in that respect.

16. Modifying Policy EP12 to incorporate the mitigation measures set out in the Habitats Regulations Appraisal, including the Appropriate Assessment, will provide greater clarity and transparency for applicants with regard to where and in what circumstances the provisions of Policy NE1: International Nature conservation Sites will apply.

**Reporter's recommendations:****Policy EP4: Health and Safety Consultation Zones**

1. Delete the existing text and replace with the following:

*"In determining planning applications for development within the Pipeline Consultation Zones identified on the proposals, inset maps and Appendix 3, the Council will seek and take full account of the advice from the Health and Safety Executive and the facility's operators and owners. The Council will also seek the advice of the Health and Safety Executive and the facility's operators and owners on the suitability of any proposals for a new notifiable installation within the Plan area or any proposal within the consultation zone of any other notifiable installation."*

Policy EP9A: Existing Waste Management Infrastructure

2. Modify Policy EP9A to refer to refer to existing and consented waste management sites.

Policy EP9B: New Waste Management Infrastructure

3. At item (i), delete the existing text and replace with the following:

*“(i) the proposal is located close to an existing waste management installation and/or within an area identified within the Plan for existing or new employment uses.”*

4. At item (k) delete the existing text and replace with the following:

*“(k) the proposal demonstrates satisfactory mitigation measures for any unacceptable impacts arising from the development with respect to emissions including: air, noise, odour, dust, litter, vermin, birds, insects, leachate and surface water. It will also be necessary to mitigate any visual impact, traffic impact, impact on the natural or built heritage, and the water resource. Cumulative impacts will also be considered;”*

5. At item (l) delete the existing text and replace with the following:

*“(l) the potential for heat and/or electricity generation (which may include local or district heating schemes and co-location of industrial processes where the heat could be utilised) has been fully explored and demonstrated to be viable.”*

6. Delete the second sentence of the final paragraph and replace with the following: *“In some cases it may be that restoration bonds will be required to be lodged.”*

Binn Farm

7. Below paragraph 5.9.1 insert:

*“Note: A masterplan will be developed by way of Supplementary Guidance which at a minimum will:*

- justify the site boundaries*
- identify the uses to be accommodated on the site and the processes and technologies to be accommodated*
- identify the impacts on the environment and any appropriate mitigation necessary*
- hours of working*
- address the array of consequential traffic matters and explain how these will be dealt with.”*

Policy EP10: Management of Inert and Construction Waste

8. Add as item (e) the following: *“(e) they will not result in adverse impacts, either individually or in combination, on the integrity of a European designated site(s).”*

Policy EP12: Contaminated Land

9. Delete the second sentence and replace with the following:

*“Consideration will be given to proposals for the development of contaminated land, as*

*defined under Part IIA, Section 78A (2) of the Environmental Protection Act 1990, where it can be demonstrated to the satisfaction of the Council that appropriate remediation measures can be incorporated in order to ensure the site/land is suitable for the proposed use and in order to ensure that contamination does not adversely affect the integrity of a European designated site(s)."*