

Issue 23	Environmental Protection and Public Safety	
Development plan reference:	Policy 52 Health and Safety Consultation Zones, page 84 Policy 54 Noise Pollution, page 84 Policy 55 Air Quality Management Areas, pages 85-86 Policy 56 Contaminated Land, page 87	Reporter:
Body or person(s) submitting a representation raising the issue (including reference number):		
<div>Tayside &amp; Central Scotland Transport Partnership (TACTRAN) (0057) Mr David Gordon (0130) Mr &amp; Mrs Fleming (0150) Frances Hobbs (0152) Neil Myles (0153) John Brian Milarvie (0171) Shell UK Limited (0195) Peter and Vanessa Shand (0226) Mr J D McKerracher (0245) Scone Community Council (0265) John W Rogers (0304) Mr and Mrs Short (0382) Mr and Mrs Stewart Reith (0389) Mr and Mrs S Dallas (0392) Alistair Godfrey (0410) Moira Andrew and William Hadden (0432) Perth Civic Trust (0444) Scottish Government (0451) Jeffrey Rowlinson (0485) David F Lewington (0486) The John Dewar Lamberkin Trust (0532) The Coal Authority (0539) INEOS FPS (0570) Lisa Cardno (0599)</div> <div>James Thow (0668) Jennifer Thow (0669) Martin RW Rhodes (0675) S Goodacre (0688) H Goodacre (0689) Hazel MacKinnon (0705) Gerard Connolly (0712) Stewart McCowan (0714) Angela McCowan (0715) Gladys Ogilvy (0716) Mr Graham Ogilvie (0717) Tracy Ogilvie (0718) Shona Cowie (0719) Paul Cowie (0720) David Roy (0730) Greer Crighton (0731) Brian Hood (0732) Gaynor Hood (0733) Philip Crighton (0734) K A Bisset (0735) M Cross (0736) Gillian Halawi (0737) Lynn and Matt Brand (0738) Scottish Environment Protection Agency (SEPA) (0742)</div>		
Provision of the development plan to which the issue relates:	Policies relating to environmental protection and public safety, pages 84-87.	
Planning authority's summary of the representation(s):		
<p><u>Policy 52: Health and Safety Consultation Zones</u></p> <p>INEOS FPS (0570/01/001): Support for Policy 52 and the consultation zones indicated on the settlement statements.</p> <p>Shell UK Limited (0195/01/001): Support for Policy 52; and support for the identification of pipeline consultation zones on the respective <u>settlement maps</u>.</p>		

However concerns are raised that not all of the respective settlement summaries refer to the existence of these pipeline consultation zones. To ensure a consistent approach across the LDP, the respondent suggests that reference to the pipeline consultation zones be included in all settlement summaries where there is a corresponding pipeline consultation zone. These settlements are: Auchterarder, Balbeggie, Braco, Bridge of Earn and Oudenarde, Coupar Angus, Drunzie, Dunkeld and Birnam, Gleneagles, Glenfarg, Guildtown, gWest, Hattonburn, Kinnaird, Kinross, Kinrossie, Meigle, Methven, Perth West, Powmill, St David's, St Madoes and Glencarse, and Wolfhill.

To ensure a consistent approach across the LDP, the respondent suggests that the wording used in the Hattonburn settlement statement be applied to all relevant settlement summaries.

The respondent suggests that this would more closely accord with the advice set out in SPP, generally at paragraph 235 and more specifically at paragraphs 99 and 107. Paragraph 99 confirms the need to identify and safeguard oil and gas pipelines through the development plan process; and paragraph 107 notes the requirement to conform with HSE advice, including maintaining appropriate distances between sites with hazardous substances and new development. Further guidance was published in Circular 3/2015 Planning Controls for Hazardous Substances.

The respondent also requests that the Kinross and Milnathort settlement statement be amended where the text refers to pipeline consultation zone to refer to policy 52 not policy 55. It is assumed that this is a typing error.

Shell UK Limited (0195/01/002): Following publication of the Proposed Plan, any new or expanded settlement boundaries or proposals must be assessed against the relevant HSE guidance (intended to apply to settlement boundaries or proposals introduced either by the Council or the reporter at examination stage). Full recognition must be given to the existence of any pipeline consultation zones and the relevant HSE guidance controlling development within these zones.

#### Policy 54: Noise Pollution

Alistair Godfrey (0410/01/016) states that the policy needs to specifically protect residential areas and where noise would significantly affect a rural setting.

#### Policy 55: Air Quality Management Areas

TACTRAN (0057/01/017): Welcomes support for low emission technologies for transport and will work with the Council to implement the Air Quality Action Plans

The John Dewar Lamberkin Trust (0532/05/002): Support for the objectives underpinning the policy and for the Supplementary Guidance.

John W Rogers (0304/01/011): When planning permission in principle was granted for Proposal H29 the Council erroneously used Environment Protection UK's (EPUK) 2010 report instead of EPUK's updated 2015 report, which has been endorsed by the Scottish Government's air quality policy of March 2016 and incorporated in the report by Environmental Protection Scotland in January 2017. Requests a clear statement in the Plan that the most up to date guidance on air quality and the need for air quality assessments will be used.

Scottish Government (0451/01/005): The policy should be clearer about what 'sensitive' receptors are. The policy should be clear about whether mitigations for air quality impacts are to be on site, through design changes, or offsite, through public transport or active travel provision for example. The lack of clarity weakens the ability of the policy to gain positive air quality outcomes. It is assumed that the detailed policy content is to be included in supplementary guidance but it is considered that more detail is required in the policy itself in order to accord with Circular 6/2013 (CD001) paragraph 138, which requires that supplementary guidance is limited to the provision of further information or detail in respect of policies or proposals set out in the LDP.

David Gordon (0130/01/003): Perth's Air Quality Management Area includes extensive areas where there is no traffic related pollution but omits the A94 through Scone, which is unpleasant with fumes. The AQMA should be extended to include the A94 corridor within Scone.

Alistair Godfrey (0410/01/017): The Perth air quality management area should be extended to areas of expanding development such as Bertha Park

SEPA (0742/01/020): The policy as proposed is very limited because it only applies within Perth and Crieff AQMAs. Broaden the policy coverage to require mitigation measures for any proposed development that could have a detrimental impact on air quality through exacerbation of existing air quality measures or introduction of new sources of pollution. This would have significant positive effects. It would also accord with Scottish Government's Cleaner Air for Scotland – The Road to a Healthier Future (CD066); and with SPP paragraph 28; and may also have a beneficial effect on greenhouse gas emissions and therefore work towards the reduction in greenhouse gas targets set out in the Climate Change Act.

Mr & Mrs Fleming (0150/01/011): Objects to the omission of air quality and pollution from the Proposed Plan and the subsequent serious risk to health. Air Quality assessments should be required for all new developments and the roads they feed into. There have been a number of Air Quality assessments carried out in Scone and Bridgend and the measurements far exceed safe and healthy levels with high levels of poisonous gases. If developers cannot be enforced to carry out these surveys the Council has a duty of care to its residents to provide one. The claim that drivers will switch to electric cars is speculative, and many HGVs continue to use the A93. It is a fact that most Perth residents require a car because they are unable to use public transport on a daily basis

Mr and Mrs S Dallas (0392/01/003): Object to the lack of concern in the Proposed Plan regarding air quality because it does not recognise the cumulative effect Proposal H29 and the other multiple development sites will have on air quality and pollution. Bridgend is already an air quality management area with dangerously high levels of poisonous gases recorded. The Proposed Plan ignores independent gas readings taken along Scone main road that show levels above legal limits.

Moirra Andrew and William Hadden (0432/01/005): The respondents state that 6.4.6 appears not to be logical because it states there is no air pollution in Scone, but agrees that further development would increase the traffic issue in Bridgend if built before the CTRL. No air quality assessment has been prepared. Scone would be one of the many developments prior to the CTRL. The respondents oppose the avoidance of a proper cumulative assessment of air quality and the illogical explanation for this.

Perth Civic Trust (0444/01/004): More must be done to improve air quality. Particular concerns are raised in respect of pollution at Atholl Street, Perth. While the Council has a responsibility to improve air quality, table 6 of the non-technical summary of the SEA environmental report states that the Proposed Plan has potentially significant adverse effects on air quality. The Perth air quality action plan dates from 2009 and the only progress update is from 2012. The respondent understands that it is the Council's opinion that air quality should improve after CTRL is complete but this view is not reflected in the Proposed Plan. The Council should provide a clear explanation of how air quality targets will be met during a period when road traffic is expected to increase substantially.

Frances Hobbs (0152/01/011): Object to the lack of concern in the Proposed Plan regarding air quality and its consequent health effects. An embargo should be put in place on further house building along the A93/A94 corridors until the Cross Tay Link Road has been built.

Neil Myles (0153/01/011); John Brian Milarvie (0171/01/011); Peter and Vanessa Shand (0226/01/011); Mr J D McKerracher (0245/01/012); Scone Community Council (0265/01/013); John W Rogers (0304/01/011); Mr and Mrs Short (0382/01/007); Mr and Mrs Stewart Reith (0389/01/005); Jeffrey Rowlinson (0485/01/006); David F Lewington (0486/01/006); Lisa Cardno (0599/01/10); James Thow (0668/01/010); Jennifer Thow (0669/01/10); Martin RW Rhodes (0675/01/010); S Goodacre (0688/02/002); H Goodacre (0689/02/002); Hazel MacKinnon (0705/01/011); Gerard Connolly (0712/01/011); Stewart McCowan (0714/01/011); Angela McCowan (0715/01/011); Gladys Ogilvy (0716/01/011); Graham Ogilvie (0717/01/011); Tracy Ogilvie (0718/01/011); Shona Cowie (0719/01/011); Paul Cowie (0720/01/011); David Roy (0730/01/011); Greer Crighton (0731/01/011); Brian Hood (0732/01/011); Gaynor Hood (0733/01/011); Philip Crighton (0734/01/011); K A Bisset (0735/01/002); M Cross (0736/01/002); Gillian Halawi (0737/01/002); Lynn and Matt Brand (0738/01/002): The respondents' comments on air quality relate to Scone, and objections are raised in respect of the lack of concern in the Proposed Plan regarding air quality and its consequent health effects. Requests that the plan state air quality assessments are deemed essential for all developments, especially in respect of cumulative effects; and an embargo is placed on further house building along the A93/A94 corridors until the Cross Tay Link Road has been built.

#### Policy 56: Contaminated Land

The Coal Authority (0539/1/003) objects to the omission of unstable land from planning policies. While Development High Risk Area only covers a small part of the Council area mining legacy risks pose a significant risk to safety of future developments.

Recommended wording: At end of first paragraph add " In respect of unstable land, as defined by the Coal Authority development High Risk Area, the applicant should demonstrate to the LPA the site is or can be made safe and stable for the development proposed" And in the first sentence of the second paragraph add "and/or unstable land" .

SEPA (0742/1/021) supports the policy wording as it accords with PAN33 and may contribute to improving soil functionality.

#### **Modifications sought by those submitting representations:**

#### Policy 52: Health and Safety Consultation Zones

INEOS FPS (0570/01/001): No specific modification is sought.

Shell UK Limited (0195/01/001): Amend specific settlement summaries to include a textual reference to pipeline consultation zones where there is a corresponding pipeline consultation zone. Correct typing error in Kinross and Milnathort settlement summary so it refers to policy 52 not policy 55.

Shell UK Limited (0195/01/002): No specific modification is sought however concerns are raised that any new or expanded settlements or proposals must be assessed against the relevant HSE guidance before modifications are made to the Proposed Plan as a result of the outcome of the examination.

#### Policy 54: Noise Pollution

Alistair Godfrey (0410/01/016) requests the policy be amended to specifically protect residential areas and where noise would significantly affect a rural setting.

#### Policy 55: Air Quality Management Areas

TACTRAN (0057/01/017); The John Dewar Lamberkin Trust (0532/05/002): No specific modification sought.

John W Rogers (0304/01/011): Requests a clear statement in the Plan that the most up to date guidance on air quality and the need for air quality assessments will be used.

Scottish Government (0451/01/005): Amend the policy to clarify what is meant by 'sensitive' receptors. Clarify whether mitigations for air quality impacts are to be on site, through design changes, or offsite. More detail is required in the policy.

David Gordon (0130/01/003): Amend Perth's Air Quality Management Area to include the A94 corridor within Scone

Alistair Godfrey (0410/01/017): The Perth air quality management area should be extended to areas of expanding development such as Bertha Park.

SEPA (0742/01/020): Delete 'Management Areas' from the policy title.

Mr & Mrs Fleming (0150/01/011): Strengthen the Proposed Plan's treatment of air quality issues. The respondent suggests amending policy 55 to ensure to require air quality assessments for all new developments and the roads they feed into; and requiring the Council to carry out assessments where developers do not.

Mr and Mrs S Dallas (0392/01/003): Strengthen the Proposed Plan's treatment of air quality and its consequent health effects, especially the cumulative effects when considering all the proposals in the Proposed Plan. Independent gas readings taken along Scone main road should not be ignored.

Moirra Andrew and William Hadden (0432/01/005): Amend the Proposed Plan to include a proper cumulative assessment of air quality.

Perth Civic Trust (0444/01/004): Amend the Proposed Plan to show how the Proposed Plan will improve air quality. Update the Perth air quality action plan more regularly.



Frances Hobbs (0152/01/011): Strengthen the Proposed Plan's treatment of air quality and its consequent health effects. The respondent suggests an embargo on further house building along the A93/A94 corridor until the Cross Tay Link Road has been built.

Neil Myles (0153/01/011); John Brian Milarvie (0171/01/011); Peter and Vanessa Shand (0226/01/011); Mr J D McKerracher (0245/01/012); Scone Community Council (0265/01/013); John W Rogers (0304/01/011); Mr and Mrs Short (0382/01/007); Mr and Mrs Stewart Reith (0389/01/005); Jeffrey Rowlinson (0485/01/006); David F Lewington (0486/01/006); Lisa Cardno (0599/01/10); James Thow (0668/01/010); Jennifer Thow (0669/01/10); Martin RW Rhodes (0675/01/010); S Goodacre (0688/02/002); H Goodacre (0689/02/002); Hazel MacKinnon (0705/01/011); Gerard Connolly (0712/01/011); Stewart McCowan (0714/01/011); Angela McCowan (0715/01/011); Gladys Ogilvy (0716/01/011); Graham Ogilvie (0717/01/011); Tracy Ogilvie (0718/01/011); Shona Cowie (0719/01/011); Paul Cowie (0720/01/011); David Roy (0730/01/011); Greer Crichton (0731/01/011); Brian Hood (0732/01/011); Gaynor Hood (0733/01/011); Philip Crichton (0734/01/011); K A Bisset (0735/01/002); M Cross (0736/01/002); Gillian Halawi (0737/01/002); Lynn and Matt Brand (0738/01/002): The respondents suggest amending policy 55 to require air quality assessments for all developments, especially in respect of cumulative effects. The respondent suggests an embargo on further house building along the A93/A94 corridor until the Cross Tay Link Road has been built.

#### Policy 56: Contaminated Land

The Coal Authority (0539/1/003) objects to the omission of unstable land from planning policies. While Development High Risk Area only covers a small part of the Council area mining legacy risks pose a significant risk to safety of future developments.

Recommended wording: At end of first paragraph add " In respect of unstable land, as defined by the Coal Authority development High Risk Area, the applicant should demonstrate to the LPA the site is or can be made safe and stable for the development proposed" And in the first sentence of the second paragraph add "and/or unstable land"

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

#### Policy 52: Health and Safety Consultation Zones

Shell UK Limited (0195/01/001): The Council recognises the importance of consultation zones for pipelines and sites with hazardous substances, and of the need to maintain appropriate distances between such installations and new development. Consultation zones are shown on the proposals map and the Council consults the Health and Safety Executive and the pipeline owner and operator to ensure that any risk to safety is not increased and the installation is protected.

No modification to the plan is proposed. However there is value in adding appropriate text to respective settlement summaries or site specific information to highlight where there is a corresponding pipeline consultation zone and if the reporter is so minded, the Council would be comfortable with this suggested addition because it would not have any implications on any policies or proposals in the LDP. The typing error pointed out by the respondent will be corrected through a non-notifiable modification and need not form part of the examination.

Shell UK Limited (0195/01/002): This representation is aimed at ensuring all changes made after publication of the Proposed Plan are fully assessed against the requirements

of Policy 52 and the relevant HSE guidance. For the avoidance of doubt this would be done by the Council as part of the post-examination SEA.

No modification to the plan is proposed.

#### Policy 54: Noise Pollution

Alistair Godfrey (0410/01/016): Policy 54 adequately addresses residential areas and rural settings as they are captured by the definition of “noise sensitive land uses” and therefore do not need to be specifically detailed in the policy. Noise impact assessments take into consideration the existing noise climate so if a residential area or rural setting had quiet background noise levels this would be taken into account when assessing the likely impact of a new noisy development.

The Scottish Government’s Technical Advice Note – Assessment of Noise (CD385) provides guidance in technical evaluation of noise assessment in assessing the significance of the impact in relation to sensitive receptors for example residential and quiet outdoor areas and based on this the magnitude of impact is assessed to help make informed decisions on the suitability of potentially noisy developments being placed near noise sensitive land uses.

No modification is proposed.

#### Policy 55: Air Quality Management Areas

Scottish Government (0451/01/005); John W Rogers (0304/01/011): It is agreed that more clarification on the matters specified by the respondents is required. The Council’s view is that this is best contained in supplementary guidance on air quality that will make reference to definitions for sensitive receptors; and will give clarity on whether mitigations for air quality impacts should be on site or offsite. The supplementary guidance is under preparation and will be kept up to date so that only the most up to date guidance on air quality matters will be used. The issue relating to the determination of the application for planning permission in principle for proposal H29 is not a matter for the Proposed Plan examination.

No modification is proposed to the Plan.

David Gordon (0130/01/003); Alistair Godfrey (0410/01/017): Air quality management areas are designated and reviewed separately to the Local Development Plan process. Policy 55 does not designate these areas but Policy map H on page 86 of the Proposed Plan illustrates those air quality management areas already designated. The Council has a duty to keep air quality under review within its area and regularly monitors potential areas of degraded air quality. To date there is no evidence to justify any new or extended air quality management areas.

No modification is proposed to the Plan.

SEPA (0742/01/020): The policy as proposed has been drafted to address the areas where it is critical that development does not worsen an existing air quality issue. And the likelihood of air quality being affected by a development relates more to major proposals where an Environmental Impact Assessment report or Transport Assessment is required, and this would be an appropriate mechanism to address potential concerns.

There are large areas of the LDP area that are not in an already-designated AQMA and therefore currently fall outwith the scope of this policy. There are two ways of bringing these areas within the scope of the policy, as requested in representations. Firstly, the area covered by AQMA could be expanded to include more of the LDP area however this is not within the control of the planning system and there is no evidence to date that would suggest new or expanded AQMAs could be justified. Alternatively the wording of the policy could be changed to make it clear that it applies equally to all areas of the LDP area, and not just within designated AQMAs.

No modification is proposed to the Plan, however there is considerable merit in SEPA's suggestion, which effectively and clearly alters the wording of the policy title to make it apply not only to those areas within AQMAs, but also to any proposed development that could have significant impacts on air quality (whether it is a proposal in the LDP or not). This would align the policy more closely with CAFS and with SPP, as SEPA suggests. The Council would be comfortable with this modification since it is estimated to have a significant beneficial environmental effect and would not undermine the other policies and proposals in the Plan.

Mr & Mrs Fleming (0150/01/011); Mr and Mrs S Dallas (0392/01/003); Moira Andrew and William Hadden (0432/01/005); Perth Civic Trust (0444/01/004): Policy 55 as proposed has been drafted to ensure that the proposals in the plan that would have a detrimental effect on air quality must provide appropriate mitigation measures. The Strategic Environmental Assessment of the Plan, addresses the cumulative impact of the proposals in the Proposed Plan.

No modification is proposed to the Plan.

Frances Hobbs (0152/01/011); Neil Myles (0153/01/011); John Brian Milarvie (0171/01/011); Peter and Vanessa Shand (0226/01/011); Mr J D McKerracher (0245/01/012); Scone Community Council (0265/01/013); John W Rogers (0304/01/011); Mr and Mrs Short (0382/01/007); Mr and Mrs Stewart Reith (0389/01/005); Jeffrey Rowlinson (0485/01/006); David F Lewington (0486/01/006); Lisa Cardno (0599/01/10); James Thow (0668/01/010); Jennifer Thow (0669/01/10); Martin RW Rhodes (0675/01/010); S Goodacre (0688/02/002); H Goodacre (0689/02/002); Hazel MacKinnon (0705/01/011); Gerard Connolly (0712/01/011); Stewart McCowan (0714/01/011); Angela McCowan (0715/01/011); Gladys Ogilvy (0716/01/011); Graham Ogilvie (0717/01/011); Tracy Ogilvie (0718/01/011); Shona Cowie (0719/01/011); Paul Cowie (0720/01/011); David Roy (0730/01/011); Greer Crighton (0731/01/011); Brian Hood (0732/01/011); Gaynor Hood (0733/01/011); Philip Crighton (0734/01/011); K A Bisset (0735/01/002); M Cross (0736/01/002); Gillian Halawi (0737/01/002); Lynn and Matt Brand (0738/01/002): In designated air quality management areas, the policy requires mitigation for all but the smallest developments. It must however be borne in mind that if the definition of development included minor householder applications, applying a mitigation requirement for all development would not be proportionate. For those areas outside of designated air quality management areas, air quality assessments are only required where the proposed development may have significant environmental impacts. In terms of whether an embargo should be placed on further housebuilding along the A93 and A94 corridors, this is discussed as part of Issue 03 Perth Area Transport Issues.

Policy 56: Contaminated Land



The Coal Authority (0539/1/003): The issues raised by the Coal Authority are addressed at both SEA site assessment for allocated sites, leading to settlement or developer requirements such as at Blairingone. At development management stage the Coal Authority is consulted as a matter of course for non-householder applications within the DHRA. It is not necessary to add a requirement here.

No modification is proposed.

However, if the Reporter is minded to include a reference to unstable land the Council prefers that the issue not be conflated with contaminated land. The Council would prefer the following wording

Policy 56: Contaminated and Unstable Land

56A: Contaminated Land

*[per existing]*

56B: Unstable Land

Where development proposals involve building on unstable land, as defined by the Coal Authority Development High Risk Areas, the applicant should demonstrate that the site, and adjacent land, is or can be made safe and stable for the development to proceed.

**Reporter's conclusions:**

**Reporter's recommendations:**