

Development Management Guidance SEPA regulated sites and processes

SCOTTISH ENVIRONMENT PROTECTION AGENCY	Identifier:	LUPS-DM-CON
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Why we comment on this issue

As Scotland's environmental regulator we administer a number of regulatory systems. We have to judge whether or not an application submitted under one of these environmental regulatory regimes meets the requirements of the law. If the application meets the legal requirements then we are legally obliged to issue a permit. In line with [PAN 51](#) guidance, we need certain information about a development to be submitted with the planning application in order to be able to provide a view on whether the associated activity is potentially capable of being consented. The information we require in order to determine whether a process associated with a planning application can be authorised is different, but complementary, to the information we require to fulfil our role as statutory consultee of the town and country planning process.

This guidance note provides advice on how we will respond to planning authorities when elements of a development will also be regulated by us or where a development proposal is in proximity to an existing regulated process. When we respond to such consultations we must advise the planning authority as to the potential consentability of the proposal under environmental regulation.

Land use planning and environmental regulation fall under different regimes but often are complementary. For most types of development it is for developers to decide when they submit their separate applications for planning permission and authorisation. When consulted on a planning application for a development, elements of which may also be regulated by us, we must consider the acceptability of the development itself in land use terms. This involves consideration of the sensitivity of the receiving environment, including adjacent land uses and potential regulation.

SEPA's planning objectives for this topic

SEPA's objectives in providing advice to planning authorities on regulated sites and processes are to:

1. Where elements of a planning application may be regulated by SEPA, to provide a view on whether this activity is potentially capable of being consented;
2. Where development is proposed in proximity to SEPA regulated sites to provide information to planning authorities to enable them to make an informed decision on the proposed development;
3. To ensure that development proposals are located, sited and designed to minimise air quality impacts and do not create unacceptable risks to adjacent communities.

Further details on the implementation of the requirements and recommendations and supporting information can be found in the [SEPA Regulated Sites and Processes Background Paper](#).



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Development management requirements	Information requirements
<p><u>Requirement 1: SEPA regulated sites and processes</u></p> <p>Information is provided in support of the application to demonstrate that the proposal is potentially capable of being consented through the relevant SEPA regulatory regime(s). Guidance on the minimum information requirements for each regulatory regime is provided in Table 1 below.</p>	<p>See Table 1: General information requirements.</p>
<p><u>Requirement 2: Small scale biomass</u></p> <p>SEPA will object in principal to biomass proposals that are intended to use waste wood source materials which are of a scale that normally falls within the Waste Management Licence Part 5(1) exemption (capacity <50kg/hr) and are sited within an Air Quality Management Area.</p> <p>The development would not be able to comply with the terms of the exemption, which is the only relevant SEPA regulatory control. Such facilities are not capable of being controlled under the PPC regime due to their size.</p>	<p>Clarification of source material for facility.</p> <p>Specification of capacity.</p> <p>Identify location within or outwith AQMA.</p>

Development management recommendations	Information requirements
<p><u>Recommendation 1: Co-location</u></p> <p>Where a proposed new development is in the vicinity of regulated sites, Local Planning Authorities should give full consideration to the potential for negative impacts resulting from the interaction of the proposal and the regulated site and the need for any amendments to the new development to take into consideration, minimise or avoid any potential negative impacts.</p>	<p>SCAIL Agriculture screening required where proposal is new development adjacent to a regulated intensive pig or poultry farm.</p>



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Recommendation 2: Medium combustion plant directive

Proposals for combustion plants of 1MW capacity upwards may require, from 2018 onwards, to gain a permit from SEPA for operation. The Medium Combustion Plant Directive is currently being transposed into domestic legislation by the Scottish Government. It will require that combustion plant with a net rated thermal input of between 1 and 50MW coming into operation after December 2018 be registered/permitted by SEPA and will require to meet specified emission limits, depending on the size, type of fuel, etc. Plant that is put into operation before December 2018 will also have to register and meet emission limits but at a later date. For more information please contact SEPA directly.

Confirmation of size of proposed combustion plant including whether it can or will be aggregated with any other existing or proposed combustion plant.

Table 1: General information requirements

NOTE: for Windfarm, Hydro, Large Scale Mixed Use, Quarry, Fish Farm and Marine developments, see scoping letters on our [Advice for Developers webpage](#)

Regulatory regime	Information needed to support the planning application
Pollution Prevention and Control (Scotland) Regulations 2012 (PPC 2012)	<p>a) A general description of the proposed process, techniques and technology choice.</p> <p>b) <u>EITHER</u> – details of proposed processes, techniques and technologies, an assessment of environmental impact associated with technology choice, including the process of producing a detailed list of receptors, a description of potential impact on sensitive receptors, proposed mitigation measures and emissions standards to be achieved. This should include the consideration of potential future development sites i.e. sites allocated or proposed for allocation in the Local Development Plan, sites with extant planning permission or sites with planning applications under consideration by the planning authority; <u>OR</u> – demonstration that, assuming a worst-case scenario with sensitive receptors present, the development could reasonably achieve through existing technology agreed defined emissions standards. For proposals that include chimneys or stacks, a Stack Height Sensitivity Analysis,</p>



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	<p>using data modelling from a worst case scenario (proposed minimum stack height and using IED emission limit value) must be submitted.</p> <p>c) A statement relating to potential for abnormal or unusual events (e.g. non-routine emissions), the frequency and expected duration of the events, and the potential impact on sensitive receptors, in order to demonstrate the suitability of the location. This is an important issue as some processes (through for example odour) are inherently challenging in terms of co-location with for example housing.</p> <p>d) Where relevant, information required to ensure compliance with SEPA's Thermal Treatment of Waste Guidelines in terms of the efficiency of the plant and the acceptability in principle of the proposed heat plan.</p> <p>e) Information relating to carbon capture readiness where the proposal relates to an Electricity Act Section 36 application for a thermal power station of >50MW.</p> <p>f) In the case of an application for an intensive pig or poultry farm, SCAIL (Simple Calculation of Atmospheric Impact Limits) Agriculture screening will be required to identify whether screening criteria for relevant standards/critical levels will be exceeded at any designated sites and sensitive receptors. Where they are exceeded, SEPA will require further detailed modelling to better predict the impact on ambient air quality from the proposed site.</p> <p><i>Special Note: Statutory Consultee Consultation Arrangement - Appropriate Assessment</i> Where SEPA has been consulted by SNH under the Habitats Regulation for sites of high risk activity (large combustion plants, incinerators and intensive agriculture proposals for pigs or poultry required to be permitted under PPC) that are likely to have a significant effect on the nature conservation site, we require additional modelling information to be submitted, or the submission of a PPC application. The form of the information will be outlined through discussion with the applicant.</p>
Waste Management Licensing (Scotland) Regulations 2011	<p>a) <u>All waste management</u> proposals require a description of the site layout and design which demonstrates that the site is capable of accommodating the proposed development without resulting in unacceptable negative environmental impacts and is adequate for the activity proposed.</p>



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	<p>b) <u>Energy from waste</u> proposals require information to demonstrate that the proposal will comply with the Thermal Treatment of Waste Guidelines in terms of the efficiency of the plant and the acceptability in principle of the proposed heat plan.</p> <p>c) <u>Anaerobic digestion</u> proposals – refer to Thermal Treatment of Waste Guidelines for detailed planning information requirements.</p>
Radioactive Substances Act 1993 (as amended) (RSA) and Contaminated Land (Scotland) Regulations 2005 (as amended)	Detailed information will be provided in DM guidance on contaminated land/ soils.
The Water Environment (Controlled Activities) (Scotland) Regulations 2011 (as amended) (CAR)	<p>a) A description of any works which will have an impact on the water environment e.g. discharges (including volume), abstractions, culverts and bank works to allow an assessment of the impacts on water quality, quantity and morphology and to minimise these impacts at the planning stage (e.g. through modifications in layout and route selection).</p> <p>b) A list of sensitive receptors within the water environment (e.g. other water users, water dependent ecosystems) and the potential impact the proposed activities will have on them.</p> <p>c) Where appropriate, details of the technologies and techniques that will be used in carrying out the works to give a reasonable indication if any adverse impact on the water environment can be satisfactorily mitigated.</p> <p><i>Derogation assessment and determination</i></p> <p>SEPA is required to carry out a derogation assessment on any CAR application where proposals would have a significant adverse impact on the water environment i.e. breach an environmental standard, or cause deterioration in status of a water body, or prevent the future achievement of an objective in the River Basin Management Plan. This procedure is generally required for hydropower applications but is not limited to this type of development.</p> <p>We consider that it would be inappropriate for a planning authority to approve a planning application prior to the derogation test being carried out by SEPA. This is because the planning authority is a Responsible Authority under the Water Environment and Water</p>



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	Services (Scotland) Act 2003. We will advise planning authorities to defer planning decisions on any development proposal where a CAR derogation will be required.
The Town and Country Planning (Hazardous Substances) (Scotland) Regulations 1993 as amended by the Planning (Control of Major-Accident Hazards) (Scotland) Regulations 2009 and the Town and Country Planning (Hazardous Substances) (Scotland) Amendment Regulations 2010	<p>We required information which will enable us to advise the planning authority of the likely tier of the proposal under these Regulations at the planning stage.</p> <p>We will revisit this position in light of further regulatory changes in relation to COMAH.</p>

