



**Supplementary Planning
Guidance to
Planning Policy Statement 4 -
Policy PED 8:**

**‘Development Incompatible
with Economic Development
Uses’**

October 2012

EXPLANATORY NOTE

SUPPLEMENTARY PLANNING GUIDANCE TO POLICY PED 8 – DEVELOPMENT INCOMPATIBLE WITH ECONOMIC DEVELOPMENT USES (2012)

The purpose of this note is to clarify that the guidance contained in Supplementary Planning Guidance to Policy PED 8 - Development Incompatible with Economic Development Uses will continue to have effect (where relevant) unless and until such guidance is updated, revised or replaced by new Departmental guidance on this planning issue.

Further information on the contemporary status of all former DoE planning guidance (prepared under the unitary planning system) is available from the following web link:

<https://www.infrastructure-ni.gov.uk/articles/guidance-update>

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Preamble

Planning Policy Statements (PPSs) set out the policies of the Department of the Environment on particular aspects of land use planning and apply to the whole of Northern Ireland. Their contents will be taken into account in preparing development plans and are also material to decisions on individual planning applications and appeals.

This document provides supplementary planning guidance to Policy PED 8 of PPS 4 'Planning and Economic Development', published in November 2010, and must be read in conjunction with the policies contained within this PPS.

The PPS has been subjected to an equality impact screening exercise in line with the statutory obligation contained in Section 75 of the Northern Ireland Act 1998. The outcome of this exercise indicated that the PPS is unlikely to have significant adverse implications for equality of opportunity or community relations. As this document provides guidance in relation to an existing policy within the PPS, it has not been subject to further screening for equality impact.

Nothing in this document should be read as a commitment that public resources will be provided for any specific project. All proposals for expenditure by the Department are subject to economic appraisal and will also have to be considered having regard to the overall availability of resources.

1.0 Supplementary Planning Guidance

- 1.1 Policy PED 8 of PPS 4 seeks to safeguard existing or approved economic development uses from incompatible development that would prejudice future operations. This guidance note provides clarification in regard to the circumstances referred to in the policy where certain types of economic development use would be incompatible with existing or approved industrial undertakings requiring a particularly contaminant free environment. The latter are referred to in this guidance note as “sensitive industrial enterprises”.
- 1.2 There are background levels of contaminants in the air as a result of natural processes and normal human activity. However some industries, because of the nature of the product or processes, may be particularly sensitive to the presence of contaminants in the air. Examples of such industries include pharmaceuticals (drugs manufacture, research and development), medical products (e.g. medical equipment and sterile packaging), food processing, electronics, information and communication technology (ICT) and general research and development. Many of these sectors also tend to represent the “higher value” end of the economic development spectrum offering employment in specialised jobs and significant sales in markets outside Northern Ireland. Often, an individual enterprise engaged in one of these sectors will be important to the local economy and may be significant to the regional economy. It is in the public interest to ensure that their operations are not unduly compromised through new development, including the expansion of existing enterprises, likely to result in harmful air contamination.
- 1.3 Economic development activities that by their nature emit dust, odour, or other contaminants may have the potential to impact upon ‘sensitive industrial enterprises’. Some sources of these emissions include the following:
- Dust - quarrying, manufacture of cement / concrete products, landfill
 - Odour some agri-food business (e.g. intensive farms, dairies, slaughterhouses and rendering plants) and waste management activities (e.g. landfills, waste transfer stations, composting, land spreading, mechanical biological treatment facilities, hazardous waste treatment facilities, sludge treatment facilities)
 - Microbial contamination (micro organisms and particles) – some agri-food business (e.g. slaughter houses and rendering plants), clinical or municipal waste treatment facilities
 - Viral contamination – contamination from viruses emanating from food and other sources that are present in municipal waste.
- 1.4 This list is not exhaustive. Also, activities that generate significant levels of noise and vibration or which have indirect effects, for example, attracting pests such as flies to the area, may have potential to impact upon ‘sensitive industrial enterprises’.

- 1.5 In assessing development proposals likely to give rise to such emissions, the Department will consider the application of the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2012, at an early stage in the planning process.
- 1.6 The requirements of non-planning legislation, particularly in relation to public health and the regulation of environmental pollution, and the proper exercise of such controls, may to some extent limit the exposure of 'sensitive industrial enterprises' to contaminants in the air. However, this may not be a sufficient safeguard for two main reasons. Firstly, such enterprises often require particularly high standards of air quality. Secondly, in assessing the impact of new economic development proposals or the expansion of existing facilities, the focus of the regulating authorities may not be on the contaminant of concern.
- 1.7 Policy PED 8 provides additional protection for existing 'sensitive industrial enterprises' through the land use planning system. The policy requires 3 tests to be met, as follows:
1. The proposal is in the vicinity of an existing or approved economic development use,
 2. The proposal is incompatible with the existing or approved use,
 3. The proposal would prejudice the future operation of the existing or approved use.¹
- 1.8 In applying the policy there are a number of process issues that flow from the above policy tests which ought to be considered and applied by the planning authority. These are dealt with in the remainder of this guidance note.

Policy Test 1 – The Proposal Is In The Vicinity Of An Existing Or Approved Sensitive Economic Development Use

- 1.9 Firstly, the determination of planning applications for new industrial development will involve consideration of any potentially adverse impact(s) upon existing or approved sensitive economic development uses. Such proposals might give rise, for example, to emissions or other environmental effects harmful to sensitive processes. It should not be assumed therefore that industrial estates are suitable locations for all forms of economic development use, even those which *prima facie* might be acceptable for such development as the possibility of incompatibility between different uses is a material consideration which will be taken into account.

¹ PAC decision 2009/A0096 cites prejudice to the continued existence of an economic development enterprise and whether employment would be jeopardised as the relevant policy tests in assessing prejudice to the future operation of the existing or approved economic development use. These were considered to be objective tests and should not be equated with references to irrational or perceived fears as set out in other cases.

1.10 In liaison with relevant stakeholders the local planning office will:

- compile and maintain a list of sensitive industrial enterprises located in the plan area and within industrial estates. Applicants are advised therefore to discuss development proposals with their local planning office;
- seek to minimise the potential for conflict between economic development uses for example by taking account of this issue when zoning land in development plans.

Policy Test 2 – The Proposal is Incompatible with the Existing or Approved Use

1.11 The second policy test requires an assessment of the compatibility of the proposed use with ‘sensitive industrial enterprises’ in the vicinity. This may trigger the following actions:

- Consider the proposal in relation to the types of emissions that might arise (paragraph 1.3 of this guidance note provides examples of what might be an incompatible use where a contaminant free environment is a significant issue for established enterprises in the area).
- Consider the proposal in relation to its proximity to the sensitive industrial enterprise and in particular to the specific parts of the plant that require a clean or sterile environment.
- Consider the potential for pollution associated with the transport of materials to or from the proposed development taking account of such factors as the volume of such traffic and the proximity of the road to the sensitive industrial enterprise / specific areas requiring a clean or sterile environment.
- Ensure that adequate information, particularly with regard to environmental outputs or emissions, transport arrangements and intended working practices is available at the outset. This requirement should be flagged to the developer in any pre application discussion.
- Consult NIEA (IPRI² or LRM³) as appropriate to ascertain the actual or potential environmental impact of emissions from activities that it regulates. NIEA can advise on the actual or potential environmental impact of emissions from activities that it regulates where comparative information on various air quality standards is available. They may also be able to advise on whether emissions are likely to give rise to loss of amenity due to noise, dust, odour

² Industrial Pollution & Radiochemical Inspectorate

³ Land and Resources Management

etc. While this may not address the specific impact on individual industrial enterprises, the information and advice may nevertheless help to inform decision making or highlight the need to seek specialist advice.

- Consult with the environmental health department of the local Council in relation to potential impact on public health. In cases where the sensitive industry is one that is engaged in activities closely linked with human health; for example food processing, medical products or pharmaceuticals, it will be important to take account of any issues raised by the Council environmental health department. It may also be appropriate to consult with the relevant industry regulator for example the Medicines and Healthcare Regulatory Agency (MHRA) or the Foods Standards Agency (FSA) as necessary.

Policy Test 3 – The Proposal Would Prejudice the Future Operation of the Established Use

1.12 The third policy test requires an assessment as to whether the proposal, if seemingly incompatible with an existing / approved sensitive industrial enterprise in the area, would be likely to prejudice its future operation. This may trigger the following actions:

- Consider representations from the affected enterprise taking account of the precise nature of the adverse impacts that are anticipated should the proposal be approved. Likely impacts that the affected enterprise will be required to address in order to maintain regulatory standards should be specially noted.
- Assess the potential for diverting the proposed development to an alternative site.
- Consider the scope for mitigation on behalf of both the established enterprise and the proposed new development. This will be informed by consultation responses and by taking account of information sought from both parties. The aim in this is to identify the remedial or mitigating measures that could be adopted by one or both parties in order to render the proposal acceptable. Such measures could include the installation or upgrading of equipment (e.g. air purification / filtration systems or sealed units), internal re-siting of vulnerable areas in the established enterprise or pollution sources in the proposed development so as to increase separation distances, changes in working practices that could be adopted by one or both parties areas and changes to the transport systems and practices of the proposed development where this is relevant. The additional costs likely to be incurred by both parties should be quantified insofar as possible.

- Assess whether remedial measures that might be open to the established enterprise are sufficiently reasonable so as to avoid prejudice to its future operation. All evidence should be considered in the round and specialist advice sought if necessary. Relevant considerations will include the expense likely to be incurred by the established enterprise and whether there is likely to be a significant increase in the regulatory burden.
 - Assess whether appropriate remedial / mitigation measures on the part of the proposed development can be properly delivered through conditions attached to planning permission. Such conditions need to meet the normal legal tests of validity and therefore, for example, must be for a planning purpose, reasonable and fairly and reasonably related to the permitted development.
- 1.13 The final decision rests with the planning authority and will require all relevant information and advice to be carefully considered. Having applied the various policy tests referred to above, it is envisaged that there will be very few cases where a new economic development proposal is demonstrably incompatible with an existing sensitive industrial enterprise in proximity and where reasonable measures of mitigation cannot be applied. However, in the event of such a case, the overall economic and employment benefit arising from the new proposal relative to the retention of the existing enterprise will be an important material consideration in the assessment of the application. The employment potential arising from any firm proposal for expansion of the established enterprise will also need to be taken into account. In carrying out this assessment of the economic / employment implications, the planning authority may seek expert advice from DOE Economics Branch and / or an independent consultant.
- 1.14 Should the proposed site be unacceptable, the planning authority will endeavour to work with the applicant to consider potential alternative sites that could be explored either at the pre application stage or later in the process when it may become clearer that the proposal is untenable.
- 1.15 The clarification provided in this guidance note does not amend Policy PED 8. Rather, it provides guidance on a particular aspect of the policy in order to provide additional clarity for developers and the public on the main planning considerations. The guidance note also seeks to assist planning officials in their processing and assessment of such cases.