

13. ENVIRONMENTAL PROTECTION

Introduction

13.1 There has been increasing concern over the exploitation, and in some cases destruction, of the natural environment in recent years. It is now recognised that the earth, air and water, and the plant and animal life they sustain, are finite in quantity, and that the ecological balance between them can be fragile.

13.2 The European Commission's 'Green Paper on the Urban Environment' (June 1990), the UN Framework Convention on Climate Change arising from the Rio Earth Summit in June 1992 and the Kyoto Protocol agreed in 1997, drew attention to the need to place limits on growth, and to reduce emissions of greenhouse gases in the interest of pursuing sustainable development at all levels. It is now accepted that environmental protection has to be an integral part of the development process and that many locally generated environmental policies can make an important contribution and should be pursued where possible.

13.3 Sustainability is the key theme of this chapter and one of the main underlying themes of the Local Plan. Sustainable development was defined by the World Commission on Environment and Development (1987) - 'The Brundtland Commission' - as "development that meets the needs of the present without compromising the ability of future generations to meet their own needs" (see also PPG1 'General Policy and Principles' (1997), paragraph 4). The Government's strategy for sustainable development is set out in 'A better quality of life - A strategy for sustainable development in the United Kingdom' (1999). As well as providing for economic growth and social progress, it aims to achieve effective protection of the environment and prudent use of natural resources. Environmental groups emphasise that sustainable development also entails keeping within environmental limits and taking a fairer share of the Earth's resources.

13.4 The policies in this chapter seek to ensure that the effects of development are within the environment's carrying capacity and to ensure that future generations are able to meet their own needs.

The role of the Local Plan

13.5 The planning system can only provide a framework for successful environmental protection.

Some of the most harmful damage to the environment stems from activities which are outside the immediate scope of land use planning control, e.g. the degree to which sewage is treated before being discharged, or the emission of chemicals into the environment from agriculture, factories or car exhausts. The Local Plan is also restricted to controlling development within Torbay.

The Community Plan

13.6 The Council's Green Charter seeks to pursue a wide range of 'green' policies over an horizon approximating to the Plan period. Several of the Charter's policies have planning implications and there is a section on environmental protection. The Local Plan reflects the environmental objectives of the Green Charter.

13.7 The Council and other Local Strategic Partnership organisations published the Torbay Community Plan in Summer 2004. This promotes a number of environmental objectives. The community planning process incorporates the Council's former LA21 Action Plan.

13.8 The Council's Strategic Plan - 'Looking Ahead, Looking Well Ahead' (2002) set out 'Civic Pride for the Built and Natural Environment' as one of its six main themes. The Council has subsequently identified 'sustaining the environment and the economy' as one of the priorities in 'Transforming Torbay - Making Change Happen' (2004), which incorporates the Strategic Plan, Best Value Performance Plan and financial statement.

Environmental protection strategy

13.9 Current Government guidance in PPG12 'Development Plans' (1999) underlines the importance of developing policies consistent with the concept of sustainable development (Chapter 4). The guidance advises that local planning authorities need to take account of the environment in its widest sense in plan preparation, including the wider environmental concerns such as global warming and the consumption of non-renewable resources, in order to enhance the quality of life and public health (see inset following paragraph 4.4 of PPG12). Development plans are acknowledged as having an essential role to play in achieving the appropriate balance in the interests of sustainable development.

13.10 Emerging Draft Planning Policy Statements reiterate the role of the development plan system in

promoting sustainable development and addressing the land use aspects of matters such as hazardous substances and pollution (PPS1 'Creating Sustainable Communities' (February 2004) and PPS12 'Local Development Frameworks' (October 2003), Annex B).

13.11 The Regional Planning Guidance for the South West (RPG10 - September 2001) sets out the broad strategy for achieving sustainable development at a regional level. It includes policies on the sustainable use of water resources, water quality, flood risk, energy use, air quality, and coastal protection and management.

13.12 The Adopted Devon Structure Plan First Review (1999) is committed to Local Agenda 21 which sets out action required to reconcile development with environmental concerns, based on the Rio Earth Summit and later Agreements. Policy C13 seeks to protect Devon's bio-diversity. Policies C18 - 21 cover waste management; Policies C22 - 3 cover renewable energy and Policy C24 relates to water resources. Policy C28 encourages the re-use of land; Policy C29 relates to air quality and C30 seeks to minimise noise pollution. The Devon Structure Plan 2001-2016 (expected to be adopted in Summer/Autumn 2004) contains similar policies on environmental protection.

Environmental Assessment

13.13 Policy EPS of this Local Plan sets out the Council's environmental protection strategy. All development has an impact on the environment, sometimes beneficially, often adversely. **Policy EPS** seeks to ensure that environmental limits are respected. An Environmental Impact Assessment (EIA) is now mandatory for some larger projects and advised for a larger number of developments where the impact is likely to be significant. The explanation to **Policy EPS** provides advice about requirements for environmental impact assessment.

Energy conservation and global warming

13.14 Most energy used in heating, lighting and air conditioning comes from a finite supply of fossil fuels. Furthermore, conventional power stations and road vehicles release large amounts of greenhouse gases into the atmosphere. This leads to global warming, which in turn causes the sea level to rise. In addition, sulphur dioxide from coal and oil fired power stations combines with water in the atmosphere to produce acid rain, which is damaging forests and buildings and sterilising watercourses. There is therefore an urgent need to reduce emissions of greenhouse gases and to consume energy more efficiently. Government policy

guidance is contained in PPG22 'Renewable Energy' (1993). Under the Kyoto Protocol, the UK Government has agreed to reduce emissions of greenhouse gases by about 13% below 1990 levels by 2012. The Government has made a further commitment to reduce carbon dioxide emissions by 20% by 2010.

13.15 The Local Plan can play its part by encouraging energy efficiency in the design and orientation of new developments and establishing criteria for the development of renewable energy, although the opportunities to achieve the latter in Torbay may be limited. The Council recognises the influence of patterns of development and levels of vehicular traffic on energy consumption and appropriate policies are included in the chapters on Housing and Transport and Accessibility. **Policy EP1** covers energy efficient design and **Policy EP2** deals with renewable energy.

The control of pollution

13.16 Pollution can affect the water we drink and the air we breathe. Excessive noise, smell and impurities in the atmosphere can affect our health and quality of life. The need to secure new EU standards on drinking water and sewage disposal is recognised and policies in the Infrastructure and Waste chapters support appropriate measures to meet these standards. Government policy guidance is contained in PPG23 'Planning and Pollution Control' (1997) and PPG24 'Planning and Noise' (1994).

13.17 Air pollution can cause sickness and disease even in a relatively non-industrialised area such as Torbay. Its effects can be felt globally. Air pollution from road traffic has increased in recent years and is likely to go on increasing.

13.18 Pollution from existing developments lies outside planning control. However, **Policies EP3** and **EP4** apply air and odour pollution considerations to new developments and aim to safeguard new development from noise pollution. Light pollution from recreational, leisure, commercial and industrial development is an increasing problem as high standards of lighting are demanded for safety, security or recreational needs. **Policy EP5** aims to ensure that designs minimise the spillage of light into the sky and surrounding areas.

Hazardous installations

13.19 The need to control development from the effects of hazardous installations is stressed in PPG12 (paragraph 6.23) and PPG23. The legislative framework for planning and hazardous substances is

also set out in Circular 04/00 'Planning Controls for Hazardous Substances'. In Torbay, there is one notifiable site:-

- Gas pipeline, Fishacre/Ashcombe/Kenn. (Pipeline passes through the Edginswell area of Torquay, and in this location follows a line drawn between Grid References SX 890675, SX 884661, SX878659 and SX868661).

13.20 The Health and Safety Executive will be consulted about developments in the vicinity of these sites which could have an impact on, or be affected by, their operation. In view of the importance of Torbay's high quality environment, both intrinsically and economically in relation to tourism, it is considered unlikely that additional hazardous installations will be acceptable in Torbay during the Plan period. Such proposals would be considered on the basis of **Policy EP3** and policies in the Waste and Minerals Chapter.

Derelict and contaminated land

13.21 Derelict land is a wasted resource especially in an area such as Torbay which is short of land for new development. Failure to utilise this land puts more pressure on expansion into greenfield sites, which are often cheaper to develop and therefore viewed as a softer option. A total of 49ha (116 acres) of land was declared as derelict in Torbay at the time of the last official survey (1993). Derelict land is defined as "land so damaged by industrial or other development that it is incapable of beneficial use without treatment" (DOE, Derelict Land Grant Advice Note 1, 1991). Government policy guidance is contained in PPG14 'Development on Unstable Land' (1990), PPG23 'Planning and Pollution Control' (1994) and Waste Management Paper 27 (Second Edition). The Council's Contaminated Land Strategy (2001) sets out how the Council will identify and deal with contaminated land. An inventory of contaminated sites and necessary remediation measures is proposed.

13.22 There are several types of derelict land. In Torbay, over 80% is tipped land, although there are former quarries and pits as well as industrial and railway land. These sites are opportunities for job-creation, environmental improvement and recreation. Some sites, especially disused quarries and former railway cuttings, are now of considerable ecological interest and are subject to wildlife protection policies (see Chapter 12 Nature Conservation). The Local Plan recognises that the retention of the wildlife value of these sites does not necessarily conflict with Central Government advice on derelict land and **Policy EP6** prioritises the use of

derelict land, subject to other Local Plan considerations. Further information about contaminated land may be obtained from the Council's Environmental Protection Team in the Environment Services Directorate.

13.23 On landfill sites, gases such as methane and carbon dioxide, which result from decomposition of the waste, can cause problems for development. However, treatment through measures such as flaring and interception trenches to control migration, combined with regular monitoring, can enable such sites and surrounding areas to be restored to a beneficial use. **Policy EP7** sets out the Council's criteria for development on and around such landfill sites. In addition, works on contaminated land and the removal of soil etc may need to be overseen by the Environment Agency.

13.24 Instability of land can affect the potential for development. Government guidance on unstable land is given in PPG14. Where such problems are envisaged, there is a need for a stability report to accompany applications (see **Policy EP8**).

Recycling

13.25 Recycling of waste is an important element of environmental protection. Policies on recycling are contained within the Waste and Minerals chapter of the Local Plan.

Surface and ground water

13.26 The quality of watercourses both on the surface and beneath the ground is critical for drinkable water, industrial water supply, fisheries, livestock watering, agriculture, amenity and conservation. Quality can be affected through over-abstraction, pollution and contaminated ground (especially if disturbed by development). However, the development of contaminated ground can offer opportunities for improvements in water quality through the restoration of sites which were poorly infilled in the past. Prevention of contamination is, of course, better than cure. The Council, along with South West Water and the Environment Agency, is committed to ensuring that the quality of both surface and ground water is very high and these matters are dealt with in **Policies EP9** and **EP10**.

13.27 Developments are not considered appropriate where they pose an unacceptable risk to ground water quality, or quality controlled waters or are likely to have an adverse impact on fisheries, nature conservation, landscape and recreation on land

associated ecologically with inland waters. In addition the impact of development on flooding, both upstream and downstream, is a material consideration (see **Policy EP11**).

13.28 An important consideration with regard to flooding and related issues is the need to ensure that sustainable drainage measures are implemented. The importance of sustainable drainage systems is emphasised in PPG25 'Development and flood risk' (2001) and **Policy EP11** reflects this approach.

Coastal enhancement and protection

13.29 Britain possesses a rich and diverse coastline. However, it faces threats to its quality through indiscriminate development and human activity, in addition to the problems of erosion, loss of wetlands and the expected rise in sea level as a result of global warming.

13.30 At present, the sea area below mean low water mark is exempt from planning control. However, the effect of marinas and other marine developments will be felt on land in aspects such as traffic generation and visual impact. Conversely, it is also true that onshore development can have an impact on off-shore ecology, for example from sewage.

13.31 There is increasing recognition of the need for integrated coastal zone management in the interests of promoting sustainable coastal uses, balancing demand for coastal resources, resolving any conflict of use, promoting an environmentally sensitive use of the coastal zone and promoting strategic planning for the coast.

13.32 Government policy is set out in PPG20 'Coastal Planning' (1992), which states that coastal zones - areas which are affected by direct maritime influences and coast-related activities - are to be defined in development plans (paragraph 4.16). Within these coastal zones, PPG20 advises a general policy of restraint unless a coastal location is required and that development will seldom be appropriate on the undeveloped coast. Local authorities are advised to include within the coastal zone, areas at risk from flooding, erosion and land instability (paragraph 1.7). Coastal zones are to be determined within a policy context of managed retreat, especially in low-lying undeveloped coastal areas, where it is no longer considered to be economically justified to maintain existing coastal defences. The policy in these 'risk areas' should be to avoid putting further development at risk, bearing in mind the prospect of rising sea levels and increased storm damage (paragraph 2.13).

13.33 Policy EP12 provides guidance on the material coastal management considerations to be taken into account in determining applications for development in a coastal location. The Council's Policy Statement on Flooding and Coastal Defence sets out wider management and protection issues. A significant coastal protection issue in Torbay is the erosion and stability of cliffs. The landscape impact of coastal development is considered in Chapter 11 Landscape and the Green Environment, in particular **Policy L3 Coastal Preservation Areas**.

ENVIRONMENTAL PROTECTION POLICIES AND PROPOSALS

EPS Environmental protection strategy

Development should respect environmental limits, be implemented in a sustainable manner and, where possible, be accompanied by environmental mitigation.

Explanation:

13.34 Most development entails the use of land and other environmental capital as a resource. The Council will seek to ensure that development does not overload the environmental carrying capacity (i.e. environment's ability to assimilate the by-products of developments). Not all development requires a formal Environmental Impact Assessment (see below). However, environmental effects will be a central consideration in determining development proposals.

13.35 An Environment Impact Assessment (EIA) is an evaluation of the likely environmental effects of a development and the scope for modifying or ameliorating them. The Town and Country Planning (Assessment of Environmental Effects) Regulations 1999 and DOE Circular 2/99 underline the importance of EIAs as material considerations and give guidance on which types of projects are likely to require an EIA.

13.36 Schedule 1 of the Regulations lists proposals that require a complete EIA to be carried out, and sets out criteria for carrying this out. None of the projects falling in this category will be likely to apply to Torbay.

13.37 However, Schedule 2 lists a wide range of projects, several of which could not be ruled out in principle in an area such as Torbay. They may require an EIA if the environmental impact is judged likely to be significant by virtue of nature, size or location.

13.38 It is likely that an EIA will be required for Schedule 2 developments in three main types of case:-

- a) for major developments which are of more than local importance;
- b) for developments which are proposed for particularly sensitive or vulnerable locations; and
- c) for developments with unusually complex or potentially hazardous environmental effects.

13.39 More detailed selection considerations are described in Circular 2/99.

13.40 The Council will interpret the Regulations in such a way as to encourage developers to carry out an EIA for all developments where the likely environmental impact is considered to be significant. Where it is determined that proposals require an EIA, developers must compile an Environmental Statement. Circular 2/99 describes the required information for inclusion in this Statement.

EP1 Energy efficient design

Development will be required to minimise direct and indirect energy consumption by incorporating energy saving features into its design and layout.

Explanation:

13.41 It is important to encourage energy efficiency in all new developments in order to reduce the dependence on fossil fuels and reduce pollution and global warming. Significant improvements to the energy efficiency of buildings can be made at little extra cost.

13.42 Whilst energy efficient design is primarily covered by Building Regulations (Part L), it can have a significant impact on the affordability of housing as well as ensuring that development is sustainable. For example better insulation and more efficient heating and cooling systems can significantly reduce heating costs. It is thus a particularly important consideration for affordable housing. In addition, energy efficient design can reduce the running costs of commercial buildings.

13.43 Further information on energy efficient design is included in the **Environmental Guide (Section 7)**. In addition, advice on energy efficient and environmentally friendly design may be available through the Energy Saving Trust's Energy Efficiency Best Practice in Housing programme.

EP2 Renewable energy

Proposals for the development of renewable energy installations will be permitted, provided they do not:-

- (1) adversely affect residential amenity;**
- (2) result in a risk to public health and safety; or**
- (3) adversely affect townscape, landscape or wildlife policy areas.**

Explanation:

13.44 The use of renewable energy can bring about significant environmental benefits in terms of reduced burning of hydro-carbons which contribute to air pollution, global warming and the depletion of finite natural resources.

13.45 The Government, through its Non-Fossil Fuel Obligation (NFFO) and the Kyoto Protocol, is committed to reducing the use of fossil fuels. The Department of Trade and Industry's publication 'New and Renewable Energy Prospects for the 21st century - conclusions in response to public consultation', sets a target of 5% of UK electricity requirements being met from renewable sources by the end of 2003; and 10% being achieved by 2010, subject to the cost on consumers being acceptable. PPG22 'Renewable Energy' (1993) sets out targets for energy reduction and related considerations for planning policy. It is important that proposals should minimise harm to the countryside or coast. PPG22 states that development plans should contain policies on renewable energy that balance the immediate impact of renewable energy projects on the local environment with their contribution to reducing emissions of greenhouse gasses (paragraph 26). The Government recently issued updated guidance on renewable energy in the form of Planning Policy Statement 22 (2004).

13.46 However, whilst the Council supports in principle the development of renewable energy, the fact that most of Torbay is either built-up or comprises land which is affected by significant landscape constraints means that the potential for the development of renewable energy sources such as wind farms is probably extremely limited. The generation of power from landfill gas on former tips is not considered economically viable in Torbay.

13.47 There is scope for the introduction of solar panels on roofs etc and opportunities for this are likely to increase as technology develops.

EP3 Control of pollution

Proposals for development which are likely to lead to pollution will only be permitted where sufficient safeguards are taken to ensure that there is no harm to human health and no undue harm to amenity or

the natural environment, as a result of pollutants generated or mobilised by the development.

Explanation:

13.48 Pollution is recognised to be a serious public health and amenity problem. The possibility that new development could cause pollution is one aspect of the overall environmental effect of that development or the use of land. In cases of development proposals where there are significant concerns about pollution - including a reasonable public perception - the above policy seeks to enshrine a precautionary approach. This aims to ensure that potentially polluting development is acceptable in terms of its effect on the environment before it is permitted. PPG23 'Planning and Pollution Control' (1994) advises on the need for local plans to separate potentially polluting and other land uses to reduce conflicts (paragraph 2.18).

13.49 In order to avoid causing problems of pollution, proposals should have regard to the following considerations:-

- location, siting, design and layout of development;
- adequate storage, control and disposal of waste and noxious materials; and
- the need to provide measures to minimise nuisance.

13.50 It is felt that there is very little potential within Torbay's relatively limited employment areas to accommodate potentially polluting or hazardous developments without harming neighbouring industrial, commercial or residential activities. The Council is keen to support high quality employment uses which would be prejudiced by such schemes. Proposals specifically for handling and processing or special waste are addressed by **Policy W1 Waste management facilities**.

13.51 Moreover, it is important to recognise that Torbay's economy is heavily dependent on tourism, which relies on a pollution-free and hazard-free environment if it is to continue to operate in a successful and sustainable manner.

13.52 It is accepted that the dividing line between planning and pollution control authorities is not always clear cut and the Council will liaise closely with external bodies such as the Environment Agency in relation to development proposals.

EP4 Noise

Developments which would result in an unacceptable noise impact which cannot be overcome by

mitigation measures will not be permitted. Noise sensitive development will not be permitted where it would be subject to unacceptable noise disturbance.

Explanation:

13.53 Excess noise can lead to stress and related public health problems. The Noise Insulation (Amendment) Regulations (1988) point to a level in excess of 68dBA as being significant in relation to health and amenity. Housing, hospitals and schools are normally regarded as 'noise-sensitive development', although other developments or uses may be included within this definition, depending on local circumstances. Where appropriate, the Council may require an applicant to include information about the noise impact of a development, or the assessed effect of an existing noise source upon the development proposed.

13.54 Guidance about noise sensitive development is given in PPG24 'Planning and Noise' (1994). Proposals for noise sensitive development should be considered in the light of the noise exposure category (NEC) in which the site falls - these are set out in Figure 31 below:-

Figure 31: Noise exposure categories

NEC	Description
A	Noise need not be considered as a determining factor in granting planning permission, although the noise level at the high end of the category should not be regarded as a desirable level.
B	Noise should be taken into account when determining planning applications and, where appropriate, conditions imposed to ensure an adequate level of protection against noise.
C	Planning permission should not normally be granted. Where it is considered that permission should be given, for example because there are no alternative quieter sites available, conditions should be imposed to ensure a commensurate level of protection against noise.
D	Planning permission should normally be refused.

Source: PPG24 'Planning and Noise' (1994).

13.55 In areas where background levels are particularly low, the Council may consider the introduction of a noisy activity to be especially disruptive, even if the expected noise levels may not reach the 68dBA level set

out in the Noise Insulation (Amendment) Regulations (1988). In rural areas, the Council will take into account the fact that noise can affect animals.

EP5 Light pollution

Proposals for development which necessitate artificial light for operational or security reasons will be required to minimise light pollution by ensuring that new development:-

- (1) does not produce excessive lighting in relation to the purpose for which lighting is required;**
- (2) employs “down-lighting” wherever possible;**
- (3) uses shields, baffles or other appropriate measures to reduce spill light to a minimum where “down-lighting” is not possible; and**
- (4) is subject to hours of operation which are not detrimental to the amenities of the surrounding area.**

Explanation:

13.56 Poor design of lighting installations can result in the illumination of adjacent areas, causing nuisance, spillage of light in to the sky creating a ‘halo’ effect visible over a wide area, and a waste of energy resources. The design of modern lighting installations can negate these problems. The Council will encourage applicants to follow guidance given by the Institute of Lighting Engineers on this matter. In some circumstances, it may be appropriate to impose conditions limiting times when illumination is permitted. Such conditions require careful monitoring, and applicants will be required to demonstrate how developments are managed to ensure effective compliance with such conditions.

13.57 Advice on illuminated advertisements is given in the **Environmental Guide (Section 11)**.

EP6 Derelict and under-used land

Proposals for the development of derelict, vacant or underused sites will be permitted where schemes result in the beneficial reuse of land, and will be given priority over the use of greenfield sites.

Explanation:

13.58 Derelict, under-used and vacant land is a wasted resource, especially in an area such as Torbay, which has limited options for new development on land outside the urban areas and which is not affected

by landscape, ecological or agricultural constraints. In accordance with the Council’s strategy of urban containment, it is therefore appropriate to concentrate on land which is not being used to its full potential which is located within the urban areas.

13.59 A number of policy areas such as housing, shopping and employment incorporate a sequential approach to the allocation of land, focusing on using previously developed land before greenfield sites. Further details on these sequential approaches are set out in the relevant chapters. The Council will seek to enable the implementation of derelict land schemes through central government and other sources of funding, in addition to implementing this policy through the use of its development control powers.

13.60 Annex C of PPG3 ‘Housing’ (2000) gives a comprehensive definition of previously developed land. It excludes land that was previously developed but where the remains of any structure or activity have blended into the landscape over time. In such cases the landscape and nature conservation significance of such sites will be material considerations in determining applications.

EP7 Contaminated land

In considering applications affecting sites which are known to be contaminated or where there is an expectation that they might be contaminated, the risk to public health or the environment will be taken into account.

Where an unacceptable risk is considered to be a possibility the following measures will be required:-

- (1) a detailed survey to be undertaken to determine the type and amount of hazardous substances present in the soil and underlying geology of both the application site and the adjacent area; and**
- (2) in the event of contamination being on site, appropriate precautions to be taken either to remove the contaminating substance(s) or render them harmless to peoples’ health and safety, or the environment, as a condition on the granting of planning permission.**

Explanation:

13.61 Contaminated sites include tipped sites where methane and gases build up, as well as sites affected by previous activities which involved noxious substances, e.g. gasworks, hospitals, certain factories using chemicals and/or processing food.

13.62 The Government's approach to contaminated sites is set out in PPG23 'Planning and Pollution Control' (1994). Paragraph 4.2 sets out a 'suitable for use' test. This states that works should be taken to alleviate any unacceptable risk to health or the environment taking into account the actual intended use of the land.

13.63 This approach is intended to:-

- deal with risk to health, safety and the environment;
- bring (or retain) land into beneficial use; and
- minimise pressure on greenfield sites.

13.64 However, the 'suitable for use' approach does not preclude more rigorous remedial works being required by the regulatory body where the circumstances justify it.

13.65 In relation to landfill gas, the precautions set out in Waste Management Paper No. 27 'Landfill Gas' (Second Edition) need to be adhered to by the developer and subsequently monitored to the satisfaction of the Council. In particular, adequate precautions need to be taken to ensure that residential developments within 50 metres of any landfill site are free from the migration of methane and other gases, e.g. through flaring and interception trenches. Care should also be taken to ensure that development proposed within 250 metres of a landfill site is also free from any harmful effects arising from the migration of gases from tips.

13.66 Other agencies have responsibility for dealing with contaminated sites. In particular removal, rendering and disposal of contaminated waste should be overseen by the Environment Agency. In some instances a Waste Management Licence will be required from the Environment Agency. In addition the Health and Safety Executive has an involvement with workers' safety matters. Advice about contaminated sites and the Agencies involved can be obtained from the Council's Environmental Health and Consumer Protection Division. The Council is also developing its own Contaminated Land Strategy, details of which can be obtained from the Environmental Services Directorate.

EP8 Land stability

Where potentially unstable ground conditions are likely to affect the ability of a site to be developed, developers will need to demonstrate that any actual

or potential instability can reasonably be overcome. Where instability is suspected to be a problem, applications will be required to be accompanied by a stability report.

Explanation:

13.67 The development of land which is unstable due to inherent geological circumstances caused by either natural movement of ground, e.g. along faults, movement caused by mining operations, or the impact of coastal erosion, is a cause of concern. Developments in the immediate coastal area are covered by **Policy EP12 Coastal Protection Zone**.

13.68 Where it is suspected that there is a potential for such instability, the Council will require the submission of a detailed stability report in accordance with the recommendations given in PPG14 'Development on Unstable Land' (1996) (paragraph 28).

EP9 Groundwater

Development will not be permitted which poses an unacceptable risk to the quality and quantity of groundwater, or the quality of controlled waters.

Explanation:

13.69 Groundwater resources are an invaluable source of water for public supply, industry and agriculture, as well as sustaining the base flows of rivers. Developers are encouraged to incorporate sustainable drainage systems in development, to minimise pollution to groundwater from surface water or run-off. Full details are given in the Environment Agency's booklet 'Sustainable Urban Drainage - an Introduction' (see also **Policy EP11 Flood Control** and paragraph 13.77).

13.70 Some activities, such as the disposal of effluent in soakaways, landfilling of unsealed sites over permeable bedrock, or inappropriate storage of chemicals can result in the pollution of groundwater. Since the clean up of contaminated groundwater is difficult and very expensive, the Council will seek to prevent or reduce the risk of groundwater pollution by refusing planning consent for developments which it considers pose an unacceptable risk to groundwater. Map-based data is available from the Environment Agency.

13.71 Maintaining or enhancing the quality of rivers, lakes, ponds and other water bodies is important for a

wide range of uses. Deteriorating water quality can affect the supply of water for domestic, industrial and agricultural uses, general amenity, the provision of water-based recreation, fisheries and nature conservation.

EP10 Water supply

Development will only be permitted where the requirements for water supply can be adequately met without unacceptable detriment to water quality and quantity, amenity and nature conservation.

Explanation:

13.72 The supply of water to new developments is becoming increasingly onerous. Additional water abstraction could have a detrimental impact on existing abstraction, river flows, nature conservation, fisheries, amenity or recreation, particularly in areas where watercourses already experience low flow rates.

13.73 Unless there are exceptional circumstances which dictate otherwise, new development should therefore be limited to locations where adequate water resources already exist, or where new provision of water resources can be made without adversely affecting existing abstraction, river flows, water quality, amenity or nature conservation, and where it coincides with the timing of the new development. In practice, these requirements can be exceedingly restrictive.

13.74 Under the Water Resources Act 1991 an Impounding Licence may be required from the Environment Agency for the impounding of watercourses, ditches or streams etc. An Abstraction Licence may be required for the abstraction of water from any inland water or underground strata.

13.75 This policy applies to demands on the water resource and not to inadequacies on the mains water distribution system. Advice on the latter should be sought from South West Water.

EP11 Flood control

Developers will be required to demonstrate that proposals do not create an increase in the risk of flooding or are not detrimental to the water flow regime. An environmentally sensitive approach to the provision of drainage systems will be required. Where there is a significant risk of flooding from development, appropriate alleviation work will be required before development commences.

Explanation:

13.76 Development can have a significant impact on flooding where it affects a flood plain, wetland, water course or flood control structure. It is important to consider upstream as well as down stream impacts. Increased run-off may cause flooding or pollution, whilst inundation of contaminated land may cause pollutants to leach out. Development should not be located in areas highly prone to flooding. The Council’s Flood and Coastal Defence Policy Statement provides further guidance on these matters.

13.77 The Environment Agency is a statutory consultee on development plans and planning applications that are likely to affect flooding. A range of considerations and remedial measures are indicated in PPG25 ‘Development and Flood Risk’ (2001). This promotes more sustainable alternatives to conventional drainage systems. In addition, the Environment Agency booklet ‘Sustainable Urban Drainage - An Introduction’ promotes the use of environmentally friendly drainage techniques. Appropriate alleviation measures include porous pavements, infiltration trenches and basins, filter drains and strips, berms and swales, detention basins and retention ponds, and wetlands. Ponds and wetlands can also have a nature conservation value. (Other measures include culverts and flood defence systems).

13.78 Specific sites allocated for new housing and employment have been identified by the Environment Agency as requiring particular care to avoid flooding. These are highlighted in the tables relating to **Policies H1 and E1**. The Council will require remedial measures to be in place prior to the commencement of development. Sustainable drainage measures, in particular those with a wildlife and conservation value, will be favoured by the Council wherever feasible. In addition, long-term maintenance and management should be provided for, usually by legal agreement.

13.79 Sea defence works along the coastline are dealt with in **Policy EP12 Coastal Protection Zone**.

EP12 Coastal Protection Zone

A Coastal Protection Zone is proposed in the area shown on the Proposals Map. Applications for development or change of use in this Zone will be permitted only where the proposals are in accordance with the following criteria:-

- (1) proposals do not adversely affect the natural and historic environment of the area, including maritime archaeology and marine ecology;**

- (2) **proposals are appropriate for a coastal location and would not adversely affect or conflict with those aspects of the local economy which are dependent on the sea and a coastal location;**
- (3) **development proposals do not create a need for significant further coastal protection and sea defence works in undeveloped or developed coastal locations;**
- (4) **development does not adversely affect sites or areas at risk from flooding, erosion and land instability arising from maritime influences;**
- (5) **in the exceptional circumstances where proposals require a coastal location, the developed coast will be the preferred area for development, provided that such schemes contribute to its physical regeneration and environmental enhancement; and**
- (6) **development schemes should be compatible with landscape protection policies affecting the Coastal Protection Zone, in particular Policy L3 Coastal Preservation Areas.**

Explanation:

13.80 The Coastal Protection Zone is intended as a coastal management/geological control policy within the scope of PPG20 'Coastal Planning' (1992). It is not primarily intended to control landscape matters, which are covered by **Policy L3 Coastal Preservation Areas**.

13.81 The coast is an important national resource; it is also finite and concern exists about continuing development pressures and rising sea levels. Other issues include land stability, loss of habitats (including wetlands) and harm to the historic environment, including maritime archaeology. In line with advice in PPG20, the Coastal Protection Zone extends from the mean low-watermark to a line which is considered to be the extent of direct maritime influences and coast related activities. At present the low-watermark is the seaward limit for planning control. However any 'knock on' effect of land development on marine ecology is a material consideration.

13.82 English Nature's Report 'Important areas for marine wildlife around England' (August 1993) and its joint report with the RSPB 'Seabirds of South Western Waters' (1997) underline both the importance of Torbay's marine communities and bird life, and the need to ensure the conservation and enhancement of this important resource.

13.83 Most developments do not require a coastal location. Applications for developments such as tourism, recreation and infrastructure projects which may need to be located in close proximity to the coast will only be permitted if they do not cause an irreconcilable conflict with the conservation and enhancement of the coast. It is envisaged that any economic projects, e.g. port-related development in Brixham, will be limited to sites and locations identified in this Local Plan.

13.84 The Council intends to avoid putting further development at risk within the Coastal Protection Zone. New development in this area which would require protection from flooding, erosion, land instability or rock falls as a result of marine influences, would require an overriding economic justification. In addition, it is likely that an agreement entered into between the Council and the developer to absolve the Council from any liability in making good the effects of marine action would be necessary.

13.85 The Government is considering the use of coastal management plans to achieve an appropriate balance between the control and reconciliation of conflict between uses such as fishing, recreation, navigation and other purposes, and the need to conserve habitats and landscape on the coast. The Government envisages a more broadly based approach than can be provided through the planning system, although there needs to be a satisfactory relationship with land use planning. The Coastal Protection Zone is therefore seen as the appropriate area in which a future coastal management plan would operate. Issues that are wider than land use planning are addressed by the Council's Flood and Coastal Defence Policy Statement.