

## Appendix 11.1: Legislation, Policy and Guidance

### Air Quality Legislation and National Air Quality Strategy

The Environment Act 1995 requires the UK government to prepare a National Air Quality Strategy. The UK National Air Quality Strategy (NAQS) was therefore published in March 1997 setting out policies for the management of ambient air quality. The Strategy sets objectives for eight pollutants, which may potentially occur in the UK at levels that give cause for concern. These pollutants are: nitrogen dioxide (NO<sub>2</sub>), sulphur dioxide, carbon monoxide, lead, fine particulate matter (PM<sub>10</sub>), benzene, 1, 3-butadiene and ozone.

The Strategy was reviewed and a Review Report<sup>1</sup> and Consultation Document<sup>2</sup> were published by the Department of the Environment, Transport and the Regions in 1999. A revised version (The Air Quality Strategy (AQS) 2000), which supersedes the 1997 Strategy, was published in January 2000. The AQS 2000 strengthens the objectives for a number of pollutants with the exception of that for particulates, which was replaced with the less stringent EU limit value.

The objectives for the eight pollutants in the Strategy provide the basis of the implementation of Part IV of the Environment Act 1995. The Air Quality Strategy objectives for each pollutant, except ozone, were given statutory status in the Air Quality (England) Regulations, 2000<sup>3</sup> and Air Quality (England) (Amendment) Regulations 2002<sup>4</sup> ('the Regulations').

In 2007 the Air Quality Strategy was revised. This latest strategy<sup>5</sup> does not remove any of the objectives set out in the previous strategy or its addendum, apart from replacing the provisional 2010 objective for PM<sub>10</sub> in England, Wales and Northern Ireland with the exposure reduction approach for PM<sub>2.5</sub>. The UK Government and the Devolved Administrations have now therefore set new national air quality objectives for particulate matter smaller than 2.5µm diameter (PM<sub>2.5</sub>).

EU Directive 2008/50/EC<sup>6</sup> came into force in June 2008 and was transposed into legislation in England on 11th June 2010 as 'The Air Quality Standards Regulations 2010'<sup>7</sup>. This EU Directive

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<sup>1</sup> Department of the Environment, Transport and the Regions, January 1999. Report on the Review of the National Air Quality Strategy, Proposals to amend the Strategy

<sup>2</sup> Department of the Environment, Transport and the Regions 1999, The Air Quality Strategy for England, Scotland, Wales and Northern Ireland. A consultation document

<sup>3</sup> The Air Quality (England) Regulations 2000. SI No 928

<sup>4</sup> The Air Quality (Amendment) Regulations 2002

<sup>5</sup> Department of Environment, Food and Rural Affairs, The Air Quality Strategy for England, Scotland, Wales and Northern Ireland. July 2007

<sup>6</sup> Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on Ambient Air Quality and Cleaner Air for Europe

<sup>7</sup> Statutory Instruments 2010 No. 1001 The Air Quality Standards Regulations 2010



consolidates existing air quality legislation and makes achievement of the objectives a national objective rather than a local one. It also provides a new regulatory framework for PM<sub>2.5</sub>.

The current Air Quality Standards and Objectives (AQOs), as set out in the Air Quality Standards Regulations 2010, are detailed in Table 11.1.

Table 11.1: UK Air Quality Objectives and Pollutants			
Pollutant	Objective	Averaging Period	Obligation
Nitrogen Dioxide (NO <sub>2</sub> )	200µg/m <sup>3</sup> not to be exceeded more than 18 times a year	1-hour mean	All local authorities
	40µg/m <sup>3</sup>	Annual mean	All local authorities
Particulate Matter (PM <sub>10</sub> )	50µg/m <sup>3</sup> not to be exceeded more than 35 times a year	24-hour mean	All local authorities
	50µg/m <sup>3</sup> not to be exceeded more than 7 times a year	24-hour mean	Scotland only
	40µg/m <sup>3</sup>	Annual mean	All local authorities
	18µg/m <sup>3</sup>	Annual mean	Scotland only
Particulate Matter (PM <sub>2.5</sub> )	25µg/m <sup>3</sup> (target level)	Annual mean	England only
	10µg/m <sup>3</sup>	Annual mean	Scotland only
Sulphur Dioxide (SO <sub>2</sub> )	266µg/m <sup>3</sup> not to be exceeded more than 35 times a year	15-minute mean	All local authorities
	350µg/m <sup>3</sup> not to be exceeded more than 24 times a year	1-hour mean	All local authorities
	125µg/m <sup>3</sup> not to be exceeded more than 3 times a year	24-hour mean	All local authorities
Benzene (C <sub>6</sub> H <sub>6</sub> )	16.25µg/m <sup>3</sup>	Running annual mean	All local authorities
	5µg/m <sup>3</sup>	Annual mean	England and Wales only
	3.25µg/m <sup>3</sup>	Running annual mean	Scotland and Northern Ireland only
1,3-Butadiene (C <sub>4</sub> H <sub>6</sub> )	2.25µg/m <sup>3</sup>	Running annual mean	All local authorities
Carbon Monoxide (CO)	10mg/m <sup>3</sup>	Maximum daily running 8-hour mean	England, Wales and Northern Ireland only
	10mg/m <sup>3</sup>	Running 8-hour mean	Scotland only
Lead (Pb)	0.5µg/m <sup>3</sup>	Annual mean	All local authorities
	0.25µg/m <sup>3</sup>	Annual mean	All local authorities

## **Legislative Requirement for Local Air Quality Management Guidance**

The Air Quality Strategy for England, Scotland, Wales and Northern Ireland, July 2007, establishes the framework for air quality improvements based on measures agreed at a national and international level. However, despite these measures, it is recognised that areas of poor air quality will remain and these should be dealt with through the Local Air Quality Management (LAQM) process using locally implemented measures.

LAQM legislation in the Environment Act 1995 requires local authorities to conduct periodic review and assessments of air quality. These aim to identify all those areas where the air quality objectives are being, or are likely to be, exceeded.

All authorities were required to undertake the first stage of review and assessment which concluded in September 2001. In those areas identified as having the potential to experience elevated levels of pollutants the authority was required to undertake a more detailed second stage review comprising two steps; Updating and Screening Assessments and Detailed Assessments. Where it was predicted that one or more of the air quality objectives would be unlikely to be met by the end of 2005, local authorities were required to proceed to a third stage and, if necessary, declare Air Quality Management Areas (AQMA) and make action plans for improvements in air quality, in pursuit of the national air quality objectives.

An Evaluation Report, commissioned by the UK Government and Devolved Administrations in 2007, led to the publication of the LAQM Technical Guidance document LAQM.TG(09) in February 2009. This technical guidance was subsequently updated following a consultation process, and in January 2016 the LAQM Technical Guidance document LAQM.TG(16) was published by Defra.

LAQM.TG(16) presents the changes to the LAQM system across the UK. A new streamlined approach has been adopted in England and Scotland; however, Wales and Northern Ireland are still considering changes to LAQM and therefore, work according to the previous regimes.

The previous structure of Review and Assessment, comprising Updating and Screening Assessments and Detailed Assessments has been replaced by the introduction of an Annual Status Report (ASR) for England and an Annual Progress Report (APR) for Scotland.

The ASR replaces all other reports which previously had to be submitted as part of the LAQM system including Action Plans, Progress Reports, Updating and Screening Assessments and Detailed Assessments.

Local authorities now have the option of a fast track AQMA declaration. This allows more expert judgement to be used and removes the need for a detailed assessment where a local



authority is confident of the outcome. Detailed assessments should still be used if there is any doubt.

Examples of where the Air Quality Objectives should/should not apply are also detailed in LAQM.TG(16) and are included in Table 11.2 below.

Table 11.2: Examples of Where the Air Quality Objectives Should Apply		
Averaging Period	Objectives Should Apply at:	Objectives Should Generally Not Apply at:
Annual mean	All locations where members of the public might be regularly exposed. Building façades of residential properties, schools, hospitals, care homes, etc.	Building facades of offices or other places of work where members of the public do not have regular access. Hotels, unless people live there as their permanent residence. Gardens of residential properties. Kerbside sites (as opposed to locations at the building façade) or any other location where public exposure is expected to be short term
24-hour mean and 8-hour mean	All locations where the annual mean objectives would apply together with hotels. Gardens of residential properties <sup>a</sup>	Kerbside sites (as opposed to locations at the building façade), or any other location where public exposure is expected to be short term
1-hour mean	All locations where the annual mean and 24 and 8-hour objectives apply. Kerbside sites (e.g. pavements of busy shopping streets). Those parts of car parks and railway stations etc. which are not fully enclosed, where members of the public might reasonably be expected to spend one hour or more. Any outdoor locations to which the public might reasonably be expected to spend one hour or longer	Kerbside sites where public would not be expected to have regular access
15-minute mean	All locations where members of the public might reasonably be exposed for a period of 15 minutes or longer	
<sup>a</sup> Such locations should represent parts of the garden where relevant public exposure is likely, for example where there is seating or play areas. It is unlikely that relevant public exposure to pollutants would occur at the extremities of the garden boundary, or in front gardens, although local judgement should always be applied		

## Policy

Planning policy at the national, regional and local level and its relevance to environmental design and assessment is discussed in the Planning Statement submitted as part of this planning application. Policies relevant to air quality are discussed, below.

### ***Planning Policy Wales: Edition 11 (PPW11) (2021)***

Chapter 6 – ‘Distinctive and Natural Places’ covers environmental and cultural components of placemaking, outlining how development should protect the special characteristics of the natural built environment including air quality. Section 6.7 states that:

*“National air quality objectives are not ‘safe’ levels of air pollution. Rather they represent a pragmatic threshold above which government considers the health risks associated with air pollution are unacceptable. Air just barely compliant with these objectives is not ‘clean’ and still carries long-term population health risks. Nitrogen dioxide and particulate matter, which are the pollutants of primary national concern from a public health perspective, currently have no safe threshold defined and therefore the lower the concentration of those pollutants the lower the risks of adverse health effects. It is desirable to keep levels of pollution as low as possible.”*

Section 6.7.4 – ‘Framework for Addressing Air Quality and Soundscape’ states that:

*“The planning system should maximise its contribution to achieving the well-being goals, and in particular a healthier Wales, by aiming to reduce average population exposure to air and noise pollution alongside action to tackle high pollution hotspots. In doing so, it should consider the long-term effects of current and predicted levels of air and noise pollution on individuals, society and the environment and identify and pursue any opportunities to reduce, or at least, minimise population exposure to air and noise pollution, and improve soundscapes, where it is practical and feasible to do so.”*

And goes on to state in section 6.7.6:

*“In proposing new development, planning authorities and developers must, therefore:*

- address any implication arising as a result of its association with, or location within, air quality management areas, noise action planning priority areas or areas where there are sensitive receptors;*
- not create areas of poor air quality or inappropriate soundscape; and*
- seek to incorporate measures which reduce overall exposure to air and noise pollution and create appropriate soundscapes.”*

Section 6.7.12 – ‘Understanding and Identifying the Sources of Airborne (Air and Noise) Pollution’ states that:

*“Planning authorities must consider current and future sources of air and noise pollution as part of developing their strategies for locating new development. The pattern of proposed*

*development should be informed by the sensitivity of, and compatibility of, uses in relation to the sources of airborne pollution”*

Section 6.7.19 – ‘Sensitive Development’ states in relation to location of sensitive uses:

*“It will not be appropriate to locate sensitive uses, such as hospitals, schools, care homes and housing adjacent to busy roads or other transport routes, where there are no connectivity benefits to be gained and where health and amenity impacts associated with increased exposure of people to pollution will be unacceptable.”*

And goes on to state (section 6.7.21):

*“Regard should be paid to current air quality and noise levels and the quality of the existing soundscape and account taken of any relevant local air quality action plan, noise action plan and/ or local or regional air quality strategy as part of development strategies and proposals in development plans and before determining planning applications.”*

Lastly Section 6.7 also addresses construction impacts, in section 6.7.26 – ‘Managing Potential Environmental Risk Arising Through Construction Phases’:

*“Planning authorities must consider the potential for temporary environmental risks, including airborne pollution and surface and subsurface risks, arising during the construction phases of development. Where appropriate planning authorities should require a construction management plan, covering pollution prevention, noisy plant, hours of operation, dust mitigation and details for keeping residents informed about temporary risks.”*

### **Regional Policy**

There is no applicable regional policy of relevance to this assessment.

### **Local Policy**

#### *Cardiff Local Development Plan 2006 - 2026*

The Local Development Plan was adopted in January 2016 and provides policies and proposals to assist in guiding development and land use change throughout the Cardiff Council area. Air quality is considered in detail within Policy EN13 which states:

- *Development will not be permitted where it would cause or result in unacceptable harm to health, local amenity, the character and quality of the countryside, or interests of nature conservation, landscape or built heritage importance because of air, noise, light pollution or the presence of unacceptable levels of land contamination.*
- *The purposes of the Policy are to ensure that:*
  - *Developments that would generate unacceptable levels of air, noise or light pollution are appropriately located and controlled;*



- *Incompatible land uses and development are not located close to potential sources of pollution; and*
- *Developments are suitable for the proposed end use and that any actual or potential land contamination can be overcome, thereby ensuring that there is no unacceptable harm to human health or the environment.*
- *Poor air quality can harm people's health, quality of life and amenity, as well as nature conservation and built heritage interests. Poor air quality is a problem in certain areas of Cardiff. Current air quality assessments have identified four areas of the County where statutory air quality standards are being exceeded. The Council has identified these as Air Quality Management Areas:*
  - *Cardiff City Centre;*
  - *Ely Bridge;*
  - *Stephenson Court, Newport Road; and*
  - *Cardiff Road, Llandaff.*
- *These areas suffer from high levels of pollution caused by road traffic. As part of its statutory monitoring of air quality within the city the Council will annually review air quality and may revoke or declare additional Air Quality Management Areas as appropriate. In determining planning applications, consideration will be given to a development's likely effect in terms of air pollution it may cause directly, but also in terms of any increase or decrease in traffic it may generate.*
- *Where a development is likely to affect air quality significantly (i.e. where air quality standards are, or are likely to be breached or a new residential development gives rise to the need for a new Air Quality Management Area to be declared by introducing residents to areas where air quality standards are already being breached) then an application may be approved subject to conditions mitigating its impact on air quality, or refused where appropriate.*

## **Guidance**

### *Planning Practice Guidance*

On 6<sup>th</sup> March 2014, the Department for Communities and Local Government (DCLG) launched the Planning Practice Guidance web-based resource. This provides guidance on the approach to air quality.





The Planning Practice Guidance states that whether or not air quality is relevant to a planning decision will depend on the proposed development and its location. Concerns could arise if the development is likely to generate air quality impacts in an area where air quality is known to be poor. They could also arise where the development is likely to adversely impact upon the implementation of air quality strategies and action plans and/or, in particular, lead to a breach of EU legislation (including that applicable to wildlife).

Where a proposed development is anticipated to give rise to concerns about air quality an appropriate assessment needs to be carried out. Where the assessment concludes that the proposed development (including mitigation) will not lead to an unacceptable risk from air pollution, prevent sustained compliance with national objectives or fail to comply with the requirements of the Habitats Regulations, then the local authority should proceed to decision with appropriate planning conditions and/or obligations.

#### *Guidance on the Assessment of Dust from Demolition and Construction*

The IAQM has released guidance to allow for the assessment of impacts associated with dust and PM<sub>10</sub> releases, during the construction phase of a development. This guidance allows the potential dust soiling, human health and ecological effects associated with demolition, earthworks, construction and the trackout of dirt and mud onto the public highway, to be assessed at sensitive receptor locations. The methodology for the assessment is detailed in Appendix 11.3.

#### *Land-Use Planning and Development Control: Planning for Air Quality*

Guidance has been prepared by EPUK and the IAQM with relation to the assessment of the air quality impacts of proposed developments and their significance. The guidance takes into account the existing baseline air quality at sensitive receptor locations, as well as the change expected as a result of emissions from development generated vehicles. The focus of the guidance is on human receptors. Further details are provided in Appendix 11.3.