Appendix 8.2 – Legislation, Policy and Guidance

Legislation

Air Quality Strategy for England, Scotland, Wales and Northern Ireland

The Government's policy on air quality within the UK is set out in the Air Quality Strategy (AQS) for England, Scotland, Wales and Northern Ireland, most recently updated in July 2007. The AQS sets out a framework for reducing hazards to health from air pollution and ensuring that the European Union and International agreements are met in the UK.

The AQS covers the following air pollutants: ammonia (NH_3), benzene (C_6H_6), 1,3 butadiene (C_4H_6), carbon monoxide (CO), lead (Pb), oxides of nitrogen (NO_x) (including nitrogen dioxide (NO_2)), particulate matter (PM_{10} and $PM_{2.5}$), sulphur dioxide (SO_2), ozone (O_3) and polycyclic aromatic hydrocarbons (PAHs).

The AQS sets standards and objectives for the listed pollutants for the protection of human health, vegetation and ecosystems. The standards are based on recommendations by the Expert Panel on Air Quality Standards (EPAQS) and the World Health Organisation (WHO) based on current understanding and scientific knowledge about the effects of air pollution on health and the environment. The air quality objectives are policy based targets set by the UK Government that are often expressed as maximum concentrations not to be exceeded either without exception or with a limited number of exceedances within a specified timescale.

For the pollutants considered in this assessment, there are both a long-term (e.g. annual mean) and short-term (e.g. one hour mean) standard. In the case of NO_2, the short-term standard is for a 1-hour averaging period (no more than 18 exceedances of 200 µg/m^3 per year), whereas for PM_{10} it is a 24-hour averaging period (no more than 35 exceedances of 50 µg/m^3 per year). The variation in time period reflects the varying impacts on health of differing exposures to pollutants.

Air Quality Standards Regulations

The air quality objectives in the AQS are statutory in England with the Air Quality (England) Regulations 2000 and the Air Quality (England) (Amendment) Regulations 2002 for the purpose of Local Air Quality Management (LAQM).

The Regulations require likely exceedances of the AQS objectives to be assessed in relation to:

"…the quality of air at locations which are situated outside of buildings or other natural or man-made structures, above or below ground, and where members of the public are regularly present…"

The Air Quality Standards (Amendment) Regulations 2016 transpose the European Union Ambient Air Quality Directive (2008/50/EC) into law in England, with the Air Quality (Amendment of Domestic Regulations) (EU Exit) Regulations 2019 ensuring continuation of the transposition of the Directive. This Directive sets legally binding limit values for concentrations in outdoor air of major air pollutants that impact public health such as NO_2, PM_{10} and $PM_{2.5}$. The limit values for NO_2 and PM_{10} are the same concentration levels as the relevant AQS objectives and the limit value for $PM_{2.5}$ is a concentration of 25 µg/m^3. The relevant air quality objectives are presented in Table 1.

Table 1 Air Quality Objectives for Relevant Pollutants

Pollutant	UK AQS Objective	Measured as
NO_2	200 µg/m^3	1-hour mean, not to be exceeded more than 18 times a year (99.79 %ile)
	40 µg/m^3	Annual mean
PM_{10}	50 µg/m^3	24-hour mean, not to be exceeded more than 35 times a year (90.41 %ile) for UK

Pollutant	UK AQS Objective	Measured as
	40 µg/m^3	Annual mean
$PM_{2.5}$	25 µg/m^3	Annual mean

Environment Act 1995

Part IV of the Environment Act 1995 requires local authorities to periodically review and assess the quality of air within their administrative area. The reviews have to consider both the air quality at the time of review and likely future air quality during the 'relevant period' and whether any air quality objectives prescribed in regulations are being achieved or are likely to be achieved in the future. Where the objectives are not likely to be achieved, an authority is required to designate an Air Quality Management Area (AQMA). For each designated AQMA the local authority is required to produce an Air Quality Action Plan (AQAP) that works to ensure compliance with the objectives by implementing a number of air quality improvement measures.

Environment Act 2021

Schedule 11 in Part VI of the Environment Act 2021 sets out the amendments made from the Environment Act 1995. The principles remain consistent in that the Environment Act 2021 requires local authorities to periodically review and assess the quality of air within their administrative area. Where the objectives are not likely to be achieved, an authority is required to designate an AQMA. For each designated AQMA the local authority is required to produce an Air Quality Action Plan (AQAP) that works to ensure compliance with the objectives by implementing a number of air quality improvements measures.

Environment Protection Act

Section 79 of the Environmental Protection Act 1990 (as amended) makes provision for the identification and control of statutory nuisances. The Act identifies statutory nuisance, in relation to air quality, as:

- *'Any dust, steam, smell or other effluvia arising on industrial, trade or business premises and being prejudicial to health or a nuisance'; and,*
- *'Any accumulation or deposit which is prejudicial to health or a nuisance'.*

As a result, the level at which a nuisance occurs is highly variable and dependent on perception, with effects influenced by existing conditions and the degree of change that has occurred.

Where a statutory nuisance has been demonstrated the local authority must serve an abatement notice, non-compliance with which would constitute a legal offence. The abatement notice may prevent or restrict occurrence or re-occurrence of the nuisance or the local authority may, itself, undertake action to abate the nuisance and recover any associated expenses.

WHO Guidelines

Table 2 states the WHO Air Quality Guidelines for NO_2, PM_{10} and $PM_{2.5}$. Whilst these guidelines are not targeted in the UK there is a push meet them guidelines and be more stringent with air quality control.

Table 2 WHO Guidelines for Relevant Pollutants

Pollutant	Concentration	Measured as
NO_2	200 µg/m^3	1-hour mean, not to be exceeded more than 18 times a year (99.79 %ile)
	10 µg/m^3	Annual mean
PM_{10}	45 µg/m^3	24-hour mean, not to be exceeded more than 35 times a year (90.41 %ile)

Pollutant	Concentration	Measured as
	15 µg/m^3	Annual mean
$PM_{2.5}$	5 µg/m^3	Annual mean

Planning Policy

National

National Planning Policy Framework

The National Planning Policy Framework (NPPF) sets out policies, which apply to the preparation of local plans and to development management decisions. This framework sets out the Government's economic, environmental and social planning policies for England. Taken together, these policies articulate the Government's vision of sustainable development, which should be interpreted and applied locally to meet local aspirations.

The NPPF sets out the Government's planning policies on the conservation and enhancement of the natural environment, with the following paragraphs relating to air quality:

- Paragraph 8c, which states *'to protect and enhance our natural, built and historic environment; including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy';*
- Paragraph 55, which states *'Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition';*
- Paragraph 105, which states *'the planning system should actively manage patterns of growth in support of these objectives. Significant development should be focused on locations, which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health. However, opportunities to maximise sustainable transport solutions will vary* between *urban and rural areas, and this should be taken into account in both plan-making and decision-making';*
- Paragraph 174e, which states *'preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans';*
- Paragraph 186, which states '*Planning policies and decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas. Opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management, and green infrastructure provision and enhancement. So far as possible these opportunities should be considered at the plan-making stage, to ensure a strategic approach and limit the need for issues to be reconsidered when determining individual applications. Planning decisions should ensure that any new development in Air Quality Management Areas and Clean Air Zones is consistent with the local air quality action plan';*

- Paragraph 188, which states '*The focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities'*; and,
- Paragraph 211c, which states '*ensure that any unavoidable noise, dust and particulate emissions and any blasting vibrations are controlled, mitigated or removed at sources, and establish appropriate noise limits for extraction in proximity to noise sensitive properties*'.

Clean Air Strategy

The Clean Air Strategy sets out a wide range of actions by which the UK Government will seek to reduce pollutant emissions and improve air quality. Actions are targeted at four main sources of emissions: Transport, Domestic, Farming and Industry. At this stage, there is no straightforward way to take account of the expected future benefits to air quality within this assessment.

Reducing Emissions from Road Transport: Road to Zero Strategy

The Office for Low Emission Vehicles (OLEV) and DfT published a Policy Paper in July 2018 outlining how the government will support the transition to zero tailpipe emission road transport and reduce tailpipe emissions from conventional vehicles during the transition. This paper affirms the Government's pledge to end the sale of new conventional petrol and diesel cars and vans by 2040, and states that the Government expects the majority of new cars and vans sold to be 100% zero tailpipe emission and all new cars and vans to have significant zero tailpipe emission capability by this year, and that by 2050 almost every car and van should have zero tailpipe emissions. It states that the Government wants to see at least 50%, and as many as 70%, of new car sales, and up to 40% of new van sales, being ultra-low emission by 2030.

The paper sets out a number of measures by which Government will support this transition, but is clear that Government expects this transition to be industry and consumer led. The Government has since announced that the phase-out date for the sale of new petrol and diesel cars and vans will be brought forward to 2030 and that all new cars and vans must be fully zero emission at the tailpipe from 2035. If these ambitions are realised then road traffic-related nitrogen oxide (NOX) emissions can be expected to reduce significantly over the coming decades, likely beyond the scale of reductions forecast in the tools utilised in carrying out this air quality assessment.

National Air Quality Plan

Defra has produced an Air Quality Plan to tackle roadside NO_2 concentrations in the UK; a supplement to the 2017 Plan was published in October 2018 and sets out the steps Government is taking in relation to a further 33 local authorities where shorter-term exceedances of the limit value were identified. Alongside a package of national measures, the 2017 Plan and the 2018 Supplement require those identified English Local Authorities (or the Greater London Authority (GLA) in the case of London Authorities) to produce local action plans and/or feasibility studies. These plans and feasibility studies must have regard to measures to achieve the statutory limit values within the shortest possible time, which may include the implementation of a Clean Air Zone (CAZ).

There is currently no straightforward way to take account of the effects of the 2017 Plan or 2018 Supplement in this assessment; however, consideration has been given to whether there is currently, or is likely to be in the future, a limit value exceedance in the vicinity of the Proposed Development. This assessment has principally been carried out in relation to the air quality objectives, rather than the EU limit values that are the focus of the Air Quality Plan.

Local

Manchester Local Plan

Local planning policy is provided in Manchester City Council's Local Plan, with the Core Strategy Development Plan comprising the key document in the Local Plan outlining the Council's vision for Manchester in 2027 and identifying the planning policies, which will be used to deliver that vision.

The main planning policy relating to air quality is provided by Policy EN16 of the Core Strategy, which states that

"*…the Council will seek to improve the air quality within Manchester, and particularly within Air Quality Management Areas, located along Manchester's principal traffic routes and at Manchester Airport. Developers will be expected to take measures to minimise and mitigate the local impact of emissions from traffic generated by the development, as well as emissions created by the use of the development itself, including from Combined Heat and Power and biomass plant. When assessing the appropriateness of locations for new development the Council will consider the impacts on air quality, alongside other plan objectives. This includes cumulative impacts, particularly in Air Quality Management Areas."*

Further this, Policy EN7 on energy infrastructure opportunities identifies that

"*…there will be a presumption in favour of low and zero carbon decentralised energy schemes, subject to the following considerations… the cumulative impact of energy schemes will be taken into account when consideration applications, to include modelled impacts on air quality and landscape character, with reference to Policy EN16*."

Guidance

National Planning Practice Guidance

The NPPF is supported by Planning Practice Guidance, which outlines how the planning process can address potential air quality impacts associated with new development. It provides guidance on the level of detail required, how impacts can be mitigated and provides information on how local authorities may take air quality as a specific consideration in a planning decision.

Local Air Quality Management Review and Assessment Technical Guidance

The Department for Environment, Food and Rural Affairs (Defra) has published technical guidance for use by local authorities. This technical guidance, identified as LAQM.TG, is for used by local authorities for their review and assessment work and has been applied where appropriate to this assessment.

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

Environmental Protection UK (EPUK) and the Institute of Air Quality Management (IAQM) have published guidance, which offers advice as to when an air quality assessment may or may not be required. The guidance document details what should be included within an assessment, how to determine the significance of impacts and the likely mitigation measures required to minimise the impacts.

Guidance on the Assessment of Dust from Demolition and Construction

This document, published by the IAQM, provides guidance on how to assess the impact of construction activities on air quality associated with new developments. The methodology prescribed within the document allows the impacts to be categorised based on risk (with particular reference to dust and PM_{10} on sensitive human and ecological receptors) and, where applicable, identify mitigation measures associated to the risk classification determined.

EMAQ Control of Odour and Noise from Commercial Kitchen Exhaust Systems

This document relates to ventilation and extraction systems in all types of premises where hot food is prepared for immediate consumption. The document provides an overview of the best practice measures to control grease, odour and noise from commercial kitchens, but also provides a summary of the potential sources, consideration of the local planning authority, a review of ventilation systems dependent upon the cooking type and finally it provides guidance on maintaining ventilation systems.

Guidance on the assessment of Odour for Planning

The Institute of Air Quality Management (IAQM) have published guidance, which offers advice as to when an odour assessment may or may not be required. The guidance document details what should be included within an assessment, how to determine the significance of impacts and the likely mitigation measures required to minimise the impacts