

## Appendix 6.1: Summary of Relevant Legislation, Planning Policy and Guidance

### Legislation

#### EU Framework Directive 2008/50/EC, 2008

Air pollutants at high concentrations can have adverse effects on the health of humans and ecosystems. European Union (EU) legislation on air quality forms the basis for UK legislation and policy on air quality.

The EU Framework Directive 2008/50/EC on ambient air quality assessment and management came into force in May 2008 and was implemented by Member States, including the UK, by June 2010. The Directive aims to protect human health and the environment by avoiding, reducing or preventing harmful concentrations of air pollutants.

#### Air Quality Standards Regulations, 2010

The Air Quality Standards Regulations implement Limit Values prescribed by the EU Framework Directive 2008/50/EC. The Limit Values are legally binding and the Secretary of State, on behalf of the UK Government, is responsible for their implementation.

#### The UK Air Quality Strategy, 2007

The current UK Air Quality Strategy (UK AQS) was published in July 2007 and sets out the objectives for local planning authorities (LPA) in undertaking their Local Air Quality Management (LAQM) duties. The UK AQS objectives of air pollutants relevant to this assessment are summarised in **Table A1**.

Table A1: Summary of Relevant UK AQS Objectives

| Pollutant                                              | Objective                                                               |                                                             | Date by which Objective to be Met |
|--------------------------------------------------------|-------------------------------------------------------------------------|-------------------------------------------------------------|-----------------------------------|
|                                                        | Concentration                                                           | Measured as                                                 |                                   |
| Nitrogen Dioxide (NO <sub>2</sub> )                    | 200µg/m <sup>3</sup>                                                    | 1 hour mean not to be exceeded more than 18 times per year  | 31/12/2005                        |
|                                                        | 40µg/m <sup>3</sup>                                                     | Annual Mean                                                 | 31/12/2005                        |
| Particulate Matter (PM <sub>10</sub> ) <sup>(a)</sup>  | 50µg/m <sup>3</sup>                                                     | 24 hour mean not to be exceeded more than 35 times per year | 31/12/2004                        |
|                                                        | 40µg/m <sup>3</sup>                                                     | Annual Mean                                                 | 31/12/2004                        |
| Particulate Matter (PM <sub>2.5</sub> ) <sup>(b)</sup> | Target of 15% reduction in concentrations at urban background locations | Annual Mean                                                 | Between 2010 and 2020             |
|                                                        | 25µg/m <sup>3</sup>                                                     | Annual Mean                                                 | 01/01/2020                        |

Note: (a) Particulate matter with a mean aerodynamic diameter less than 10 microns (or micrometres – µm)  
(b) Particulate matter with a mean aerodynamic diameter less than 2.5 microns

Further to **Table A1**, the European Union (EU) also sets Limit Values for NO<sub>2</sub>, PM<sub>10</sub> and PM<sub>2.5</sub>, which have been adopted by the UK. The Limit Value for NO<sub>2</sub> is the same numerical level as the AQS objective but the target date differs. Achievement of these values is a national obligation rather than a local obligation. In the UK, only monitoring and modelling carried out by Defra and Central Government meets the specification required to assess compliance with the Limit Values. Further, Defra and other central government agencies do not recognise local authority monitoring or local modelling studies when

determining the likelihood of the Limit Values being exceeded. As such the Limit Values have not been considered further in the Air Quality Assessment.

### The Environment Act, 1995

In a parallel process, the Environment Act 1995 required the preparation of a national air quality strategy setting health-based air quality objectives for specified pollutants and outlining measures to be taken by LPAs in relation to meeting these objectives (the LAQM system).

Part IV of the Environment Act 1995 provides a system of LAQM under which LPAs are required to review and assess the future quality of the air in their area by way of a staged process. Should this process suggest that any of the AQS objectives will not be met by the target dates, the LPA must consider the declaration of an Air Quality Management Area (AQMA) and the subsequent preparation of an Air Quality Action Plan (AQAP) to improve the air quality in that area in pursuit of the AQS objectives.

### The Environmental Targets (Fine Particulate Matter) (England) Regulations 2023

The Environmental Targets (Fine Particulate Matter) (England) Regulations 2023 sets the following targets:

- annual mean PM<sub>2.5</sub> concentration in ambient air must be equal to or less than 10 µg/m<sup>3</sup> by the end of 31st December 2040; and
- at least a 35% reduction in population exposure when compared with the average population exposure in the baseline period (1<sup>st</sup> January 2016 to 31st December 2018) by the end of 31st December 2040.

## Planning Policy

### National Planning Policy Framework, 2023

The National Planning Policy Framework (NPPF), published in December 2023 sets out the Government's planning policies for England and how these should be applied.

Paragraph 109 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 180 states *"Planning policies and decisions should contribute to and enhance the natural and local environment by: ... 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 191 states *"Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development."*

Paragraph 192 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.”.*

## North Hertfordshire Local Plan 2011-2031, November 2022

The current adopted NHDC Local Plan sets out the long-term vision for the district by identifying how and where new homes, jobs and infrastructure will be delivered

Policy D4 - Air Quality states:

*“Planning permission will be granted provided that development proposals:*

- a) Give consideration to the potential or actual impact on local air quality, both during the demolition/ construction phase and as a result of its final occupation and use;*
- b) Propose appropriate levels of mitigation to minimise emissions to the atmosphere and their potential effects upon health and the local environment; and*
- c) Carry out air pollution impact assessments, where required, to determine the impact on local air quality of the development.*

*Where an air quality impact assessment demonstrates that a development is unacceptable from a local air quality perspective the development will be refused.*

*Where air pollution impact assessments are not required there will still be a requirement on developers to provide appropriate levels of mitigation to address emissions of pollutants to the atmosphere.”*

Policy NE6 - New and improved open space states:

*“Planning permission will be granted for development proposals that make provision for new and/or improved open space which...*

- c) Incorporate any necessary open space buffer(s) for landscape, visual, ecological or air quality reasons.”*

## Guidance

### Department for Environment, Food and Rural Affairs, Clean Air Strategy, 2019

Published in January 2019 the Clean Air Strategy sets out a coherent framework and national action to improve air quality throughout the UK.

The Strategy is underpinned by new national powers to control major sources of air pollution, in line with the risk they pose to public health and the environment, plus new local powers to act in areas with an air pollution problem. The Strategy also supports the creation of Clean Air Zones to lower emissions from all sources of air pollution, backed up with clear enforcement mechanisms.

### Improving Air Quality in the UK: Tackling Nitrogen Dioxide in our Towns and Cities. UK Air Quality Plan for Tackling Nitrogen Dioxide, 2017

The UK Government was required by the High Court to release an Air Quality Plan to meet the NO<sub>2</sub> Limit Value in the shortest timescale as possible. This document was adopted on 26 July 2017.

The plan focuses on reducing concentrations of NO<sub>x</sub> and NO<sub>2</sub> around road vehicle emissions within the shortest possible time. With the principal aims to:

- a. reduce emissions of NO<sub>x</sub> from the current road vehicle fleet in problem locations now; and*
- b. accelerate road vehicle fleet turnover to cleaner vehicles to ensure that the problem remains addressed and does not move to other locations.*

The other aims include reducing background concentrations of NO<sub>x</sub> from:

- Other forms of transport such as rail, aviation and shipping;
- Industry and non-road mobile machinery; and
- Buildings, both commercial and domestic, and other stationary sources.

The document provided additional measures to reduce NO<sub>x</sub> and NO<sub>2</sub> concentrations in the UK, such measures include:

- Mandate local authorities to implement Clean Air Zones within the shortest possible time;
- Consultation on proposal for a Clean Air Zone Framework for Wales;
- Consultation on a draft National Low Emission Framework for Scotland;
- Commitment to establishing a Low Emission Zone for Scotland by 2018;
- Tackling air pollution on the English Road network;
- New real driving emissions requirement to address real world NO<sub>x</sub> emissions;
- Additional funding to accelerate uptake of hydrogen vehicles and infrastructure;
- Additional funding to accelerate the uptake of electric taxis;
- Further investment in retrofitting alongside additional support of low emission buses and taxis;
- Regulatory changes to support the take up of alternatively fuelled light commercial vehicles;
- Exploring the appropriate tax treatment for diesel vehicles.
- Call for evidence on updating the existing HGV Road User Levy;
- Call for evidence on use of red diesel;
- Ensure wider environmental performance is apparent to consumers when purchasing cars;
- Updating Government procurement policy;
- New emissions standards for non-road mobile machinery;
- New measures to tackle NO<sub>x</sub> emissions from Medium Combustion Plants; and,
- New measures to tackle NO<sub>x</sub> emissions from generators.

The above measures do not provide any actions which are relevant to the operation or design of the Development.

A High Court ruling on 21st February 2018, stated the UK Governments air quality improvement plan adopted on 31 July 2017 was unlawful as *'it does not contain measures sufficient to ensure substantive compliance with the 2008 Directive and the English Regulations'*. The UK Government *'must ensure steps are taken to achieve compliance as soon as possible, by the quickest route possible and by a means that makes that outcome likely'*.

The judgement stated that the UK Government must produce a supplementary plan, setting out requirements for feasibility studies to be undertaken in the 33 Local Authority Areas. NHDC is not considered within this judgement.

## Environmental Protection UK & Institute of Air Quality Management Guidance; Land-Use Planning & Development Control: Planning for Air Quality, 2017

Environmental Protection UK (EPUK) and the Institute of Air Quality Management (IAQM) Land-Use Planning & Development Control: Planning for Air Quality Guidance provides a framework for air quality considerations within local development control processes, promoting a consistent approach to the treatment of air quality issues.

The guidance explains how development proposals can adopt good design principles to reduce emissions and contribute to better air quality. The guidance also provides a method for screening the need for an air quality assessment and a consistent approach for describing the impacts at individual receptors.

The EPUK and IAQM guidance, advises that:

*"In arriving at a decision about a specific proposed development the local planning authority is required to achieve a balance between economic, social and environmental considerations. For this reason, appropriate consideration of issues such as air quality, noise and visual amenity is necessary. In terms of air quality, particular attention should be paid to:*

- *Compliance with national air quality objectives and of EU Limit Values;*
- *Whether the development will materially affect any air quality action plan or strategy;*
- *The overall degradation (or improvement) in local air quality; or*
- *Whether the development will introduce new public exposure into an area of existing poor air quality".*

## Planning Practice Guidance, 2019

The Government's national Planning Practice Guidance (PPG) states that air quality concerns are more likely to arise where development is proposed within an area of existing poor air quality, or where it would adversely impact upon the implementation of air quality strategies and / or action plans. The PPG notes that when deciding whether air quality is relevant to a planning application, considerations would include whether the development would lead to:

- Significant effects on traffic, such as volume, congestion, vehicle speed, or composition;
- The introduction of new point sources of air pollution, such as furnaces, centralised boilers and Combined Heat and Power (CHP) plant; and
- Exposing occupants of any new developments to existing sources of air pollutants and areas with poor air quality.

## Institute of Air Quality Management: Guidance on the Assessment of Dust from Demolition and Construction, 2024

The IAQM Construction Dust Guidance provides guidance to consultants and Environmental Health Officers (EHOs) on how to assess air quality impacts from construction related activities. The guidance provides a risk-based approach based on the potential dust emission magnitude of the site (small, medium or large) and the sensitivity of the area to dust impacts. The importance of professional judgement is noted throughout the guidance. The guidance recommends that once the risk class of the site has been identified, the appropriate level of mitigation measures are implemented to ensure that the construction activities have no significant impacts.

## Local Air Quality Management Policy Guidance, 2022

The Local Air Quality Management Policy Guidance LAQM.PG(22) provides guidance to improve local air quality using available levers, including planning, public health and transport responsibilities.

LAQM.PG(22) describes how power stations, motor vehicles, industrial and domestic combustion processes all contribute to local air pollution. Transport initiatives are set out to illustrate how transport measures may bring improvements in air quality.

### North Hertfordshire Air Quality Planning Guidance, October 2018

This Planning Guidance Document has been prepared to support North Hertfordshire District Council's Air Quality Development Policy within its Local Plan. The aim is to facilitate sustainable development by helping to achieve the best possible public health protection outcomes, in relation to air quality.

The objectives defined to help achieve this aim are to:

- Identify the District specific air pollution issues
- Identify the tools to control air pollution that are available to local authorities under the planning regime
- Provide clarity and consistency to developers, planners and local communities by confirming:
  - how the Council will assess planning applications in relation to air quality
  - the mitigation and monitoring of air quality impacts via planning conditions and the use of tools such as Section 106 agreements or a Community Infrastructure Levy (CIL)
  - the circumstances where an air quality assessment will be required for a proposed development
  - the requirements of an air quality assessment
- Contribute to the improvement of air quality in the District
- Be compatible with existing NHDC policies
- Compliment and add important local context to the National Planning Practice Guidance