



ENVIRONMENTAL STATEMENT
VOLUME 2
APPENDIX 7.1 – LEGISLATION AND POLICY

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Further details of the legislation and policy documents utilised in the Air Quality ES Chapter are presented in the following Sections.

AIR QUALITY STRATEGY AND LOCAL AIR QUALITY MANAGEMENT

The Environment Act 1995 (Part IV)ⁱ requires the Secretary of State to publish an air quality strategy and local authorities to review and assess the quality of air within their boundaries. The latter has become known as Local Air Quality Management (LAQM).

The Air Quality Strategyⁱⁱ provides the policy framework for local air quality management and assessment in the UK. It sets out air quality standards and objectives for key air pollutants. These standards and objectives are designed to protect human health and the environment. The Strategy also sets out how the different sectors of industry, transport and local government, can contribute to achieving these air quality objectives.

Local authorities are required to identify whether the objectives have been, or will be, achieved at relevant locations, by the applicable date. If the objectives are not achieved, the authority must declare an AQMA and should prepare an action plan within 12 months. An action plan must identify appropriate measures and policies that can be introduced in order to work towards achieving the objective(s).

The air quality objectives set out the extent to which the Government expects the standards to be achieved by a certain date. They take account of economic efficiency, practicability, technical feasibility and timescale. The objectives for use by local authorities are prescribed within the Air Quality (England) Regulations 2000ⁱⁱⁱ, and the Air Quality (England) (Amendment) Regulations 2002^{iv}.

The objectives for NO₂ and particulate matter (PM₁₀ and PM_{2.5}) are set out in Table A7.1-1. The objectives for NO₂ and PM₁₀ were to have been achieved by 2005 and 2004 respectively and continue to apply in all future years thereafter. The PM_{2.5} objective is to be achieved by 2020. It should be noted that local authorities in England have a flexible role in working towards reducing emissions and concentrations of PM_{2.5}.

Table A7.1-1: Air Quality Objectives for NO₂, PM₁₀ and PM_{2.5}

Pollutant	Time Period	Objective
Nitrogen Dioxide	1-hour Mean	200 µg/m ³ Not to be exceeded more than 18 times a year
	Annual Mean	40 µg/m ³
Fine Particles (PM ₁₀)	24-hour Mean	50 µg/m ³ Not to be exceeded more than 35 times a year
	Annual Mean	40 µg/m ³
Fine Particles (PM _{2.5})*	Annual Mean	25 µg/m ³

* The PM_{2.5} objective, which is to be met by 2020, is not in Air Quality England Regulations and there is no requirement for local authorities to assess it, although they are encouraged to do so.

The objectives apply at locations where members of the public are likely to be regularly present and exposed over the averaging period of the objective. Examples of where the annual mean objectives should apply are provided in LAQM.TG16, and include: building facades of residential properties, schools, hospitals. The annual mean objectives are not relevant for the building facades of offices or other places of work where members of the public do not have regular access, hotels, kerbsides or gardens.

The 24-hour objective for PM₁₀ is considered to apply at the same locations as the annual mean objective, as well as in gardens of residential properties and at hotels.

The 1-hour objective for NO₂ also applies wherever members of the public might regularly spend 1-hour or more, including hotels, leisure centres, outdoor eating locations, pavements of busy shopping streets, carparks and bus stations which are not fully enclosed. The 1-hour objective does not apply at kerbside sites where the public do not have regular access.

EU LIMIT VALUES

The European Union has also set limit values for NO₂, PM₁₀ and PM_{2.5}; these are legally binding and have been implemented into English legislation by The Air Quality Standards Regulations 2010^v.

The limit values for NO₂, PM₁₀ and PM_{2.5} are the same as the English objectives (Table A7.1-1), but applied from 2010 for NO₂, 2005 for PM₁₀ and 2015 for PM_{2.5}. The limit values apply at all locations (apart from where the public does not have access, where health and safety at work provisions apply and on the road carriageway).

PLANNING POLICY

National Planning Policy Framework

The National Planning Policy Framework (NPPF) 2019^{vi} sets out planning policy for England. It includes advice on when air quality should be a material consideration in development control decisions. Relevant sections are set out below:

Paragraph 170: “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”

Paragraph 180: “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 181: “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 183: “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.”

Paragraph 54: “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.”

The NPPF is supported by Planning Practice Guidance (PPG)^{vii}.

The PPG states that:

Paragraph 001 (Reference ID: 32-001-20140306): “Defra carries out an annual national assessment of air quality using modelling and monitoring to determine compliance with EU Limit Values. It is important that the potential impact of new development on air quality is taken into account in planning where the national assessment indicates that relevant limits have been exceeded or are near the limit.”

Paragraph 005 (Reference ID: 32-005-20140306): “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 an air quality impact 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).”

The PPG also sets out the information that may be required in an air quality assessment, stating that:

Paragraph 007 (Reference ID: 32-007-20140306): “Assessments should be proportional to the nature and scale of development proposed and the level of concern about air quality, and because of this are likely to be locationally specific.”

It also provides guidance on options for mitigating air quality impacts, and makes clear that:

Paragraph 008 (Reference ID: 32-008-20140306): “Mitigation options where necessary will be locationally specific, will depend on the Proposed Development and should be proportionate to the likely impact.”

ⁱ Environment Agency (1995) Environment Act

ⁱⁱ Defra (2007) The Air Quality Strategy for England, Scotland, Wales and Northern Ireland, Defra

ⁱⁱⁱ The Stationary Office (2000) Statutory Instrument 2000, No 921, The Air Quality (England) Regulations 2000, London

^{iv} The Stationary Office (2002) Statutory Instrument 2002, No 304, The Air Quality (England) (Amendment) Regulations 2002, London

^v The Stationary Office (2010) Statutory Instrument 2010, No 1001, The Air Quality Standards Regulations 2010, London

^{vi} Ministry of Housing, Communities & Local Government (2019) National Planning Policy Framework

^{vii} Ministry of Housing, Communities & Local Government (2014) Planning Practice Guidance