



CABINET REPORT

Report Title

Air Quality Update

AGENDA STATUS:

PUBLIC

Cabinet Meeting Date:	12 th September 2018
Key Decision:	Yes
Within Policy:	Yes
Policy Document:	Annual Status Report 2017 & 2018
Service Area:	Customer and Communities
Accountable Cabinet Member:	Cllr Mike Hallam
Ward(s)	Castle, Kingsthorpe, St James, Rushmills, Trinity, Park Ward, Phippsville, Sunnyside, Semilong, Spencer, Kings Heath, Old Duston, Abington, St Davids

1. Purpose

- 1.1 To seek cabinet approval of actions to address areas of new exceedances of air quality standards by permitting *amalgamation of the existing town centre AQMAs by extending one and technical revocation of four.*

2. Recommendations

- 2.1 That cabinet acknowledges that there is a persisting air quality issue in the town centre attributable to Nitrogen Dioxide (NO₂) related vehicle emissions.
- 2.2 That the Council is legally required to take actions to address newly identified exceedances of the annual mean Air Quality Objective for NO₂ around the Northgate Bus Station and The Drapery, Abington Square/ Wellingborough Road area and the White Elephant Junction on Kettering Road.
- 2.3 That Cabinet reaffirm the principle of declaration of a single town centre Air Quality Management Area (AQMA) to cover the inner ring road which would

encompass existing AQMA's and other exceedance areas and main arterial routes into the town centre. This would be achieved by extending one existing AQMA and revoking 4 to form one.

- 2.4 That Cabinet authorise a 6 week public consultation exercise with both internal and external stakeholders, businesses and local residents whom reside within the proposed single AQMA and other relevant community groups to comply with relevant policy guidelines.
- 2.5 That Cabinet note that a further report will be produced in due course to summarise the outcome of the consultation and to seek formal approval of the amendment and revocation of appropriate AQMA (s) within the required time scale.

3. Issues and Choices

3.1 Report Background

- 3.1.1 The Local Air Quality Management (LAQM) process places an obligation on Northampton Borough Council to regularly review and assess air quality, and to determine whether or not air quality objectives are likely to be achieved within the Borough. Where an exceedance is considered likely Northampton Borough Council must declare an Air Quality Management Area (AQMA) and prepare an Air Quality Action Plan (AQAP) setting measures to be put in place in pursuit of achieving those objectives.

Northampton currently has a total of seven declared AQMA's at locations where traffic related Nitrogen Dioxide (NO₂) emissions are above the mean annual air quality objective of 40.0 mg/m³ and are continually not being achieved. The locations of the existing AQMA's are shown as Appendix 1.

- 3.1.2 No proposed changes to either the M1 or A45 AQMA's are proposed.

3.2 Issues

- 3.2.1 Following further assessment of air quality monitoring data undertaken over the last few years, further areas of exceedance for NO₂ have been identified. In 2017 there were nine monitoring locations which had identified exceedances outside the existing AQMA's, which are around the Northgate Bus Station and The Drapery, areas around Abington Square and the junction near Wellingborough Road and St Edmunds Street.
- 3.2.2 As new areas of exceedance are evident, it is considered the most plausible action to take would be to amalgamate the existing town centre AQMA's into one, to cover new areas of exceedance, existing AQMA's, the inner ring road and main arterial routes into the town centre as outlined in Appendix 2.
- 3.2.3 In part fulfilment of the LAQM regime, as set out in Part IV of the Environment Act 1995 and new Policy & Technical Guidance published by the Department for Environment Fisheries and Rural Affairs (DEFRA) in 2016, an Annual Status Report was submitted to DEFRA for consultation in December 2017.

The overall response from DEFRA was endorsement for the consolidation of the five town centre AQMA's into one (Appendix 3).

- 3.2.4 At the time of writing, the Annual Status Report for 2018 has been finalised and sent to DEFRA for both appraisal and approval. It is expected that DEFRA's appraisal of the document will result in a recommendation for Northampton Borough Council to consolidate existing AQMA's expediently.
- 3.2.5 Ongoing air quality monitoring will continue to be undertaken across the borough with monitoring locations being selected on a risk basis to incorporate locations with significant exposure to vulnerable groups including areas around schools and business premises. As of January 2018 an additional sixteen monitoring locations were added to the diffusion tube monitoring network. Fifteen of these locations were outside existing AQMAs, four of which are located in close proximity to primary schools, one next to a nursery and one adjacent to a residential care home.

3.3 Choices (Options)

- 3.3.1 The recommendation is that a single town centre AQMA is formalised by the amendment of AQMA No 4 (Harborough Road, Kingsthorpe) to take into account other town centre AQMAs, new exceedance areas already outlined, the inner ring road and main arterial routes into the town centre as shown in Appendix 2. Revocation orders for AQMA Nos 2, 3, 6 & 8 will need to be sought for administrative purposes at the same time as any amendment order is agreed in principle. This approach allows a coordinated approach to addressing air quality issues across all locations in a holistic manner. It also prevents the risk of solving air quality issues at one location and creating another elsewhere (e.g. traffic rerouting). This approach also builds on the planning policy technical guidance contained in the Low Emission Strategy, whereby air quality mitigation actions have a much broader focus. The risk of blight and concern about air pollution level may be perceived by some, particularly by residents and businesses included within a single town centre AQMA
- 3.3.2 An alternative option would be to retain the existing AQMA's and declare additional AQMA's for new areas of exceedance. This option satisfies the Council's legal obligation to act on individual exceedances and avoids the inclusion of areas of compliance within any newly declared AQMA. However, this approach does not facilitate a joined up approach to addressing current problems and presents the risk of creating new areas of exceedance due to displacement of local traffic. This option also does not permit a forward thinking approach, as each problem is looked at in isolation and does not take into account the cumulative impact from ongoing and proposed developments around the town, particularly on the urban fringes.
- 3.3.2 A third option of taking no action would breach the Council's legal duty under the Environment Act 1995.

4. Implications (including financial implications)

4.1 Policy

4.1.1 Formal amendment to AQMA No 4 and revocation of AQMA No's 2, 3, 6 & 8.

4.2 Resources and Risk

4.2.1 Annual Status Reports once appraised and approved become public record. Failure to act accordingly can result in criticism from DEFRA, elected members and the public. The Secretary of State may also intervene to make Councils declare an AQMA and there is also a risk of legal challenge if the Council is not acting upon the content of those reports.

4.2.2 The public consultation exercise will be conducted using a mixture of a survey monkey questionnaire, the Council's website and social media accounts with assistance from both the Antisocial Behaviour and Communications Team, and traditional e-mails sent to the required internal and external statutory consultees.

4.2.3 Once the amendment / declaration of an AQMA has been signed, the Council will have 12 months in which to form a steering group to develop an action plan. Formal consultation with DEFRA is required prior to the implementation of action plans. Future annual status reports will need to reflect the development of and progress with action plan measures, showing which measures are active and being progressed. It is anticipated that expertise may be required to be utilised from external consultants and will have to be funded through increased revenue budget.

4.2.4 Policy guidance (LAQM.PG16) advised that in order to develop appropriate effective action plans, it is necessary for Local Authorities to identify the sources contributing to the objective exceedances within the AQMA and level of emission reductions required, as a basis for providing reduction targets for developing an action plan. External consultants will be required to be engaged to undertake such modelling, which is to be funded through existing allocated budgets.

4.2.5 The costs of the actions outlined in the report including the consultation on the proposed AQMA and the declaration of the revised AQMA will be covered within existing budgets using existing staff resources and some consultancy support in modelling. The steps required to develop and implement an updated air quality action plan will be subject of a further report which will include consideration of how this work will be funded. There is potential that DEFRA grant funding will be available to support this work.

4.3 Legal

4.3.1 Section 82 of the Environment Act 1995 requires local authorities to review the quality of the air within their area from time to time and assess whether air quality objectives are being achieved in that area.

4.3.2 Section 83(1) of the Act requires that if, following a review, it appears that air quality objectives are not being achieved in any part of its administrative area then a local authority must by order, designate that area as an AQMA until

such time as, following further review, air quality standards / objectives are being achieved.

- 4.3.3 Existing AQMA's can be either varied by a subsequent order (to allow the Council to vary the manner in which it performs its obligations) or revoked where there is year on year compliance with an Air Quality Objective. A period of public consultation is required, the timeframe is at the discretion of the Council, provided it is effective and engages fully with those affected. Where an order is varied, a copy of the revocation or amendment Order must be submitted to DEFRA and other statutory consultees and made publicly available. Local authorities are expected to take relevant action to implement such an Order within four months following receipt of comments from DEFRA.
- 4.3.4 Under Section 84 of the Act, the Council must prepare a written action plan, which must include measures to be used to implement air quality improvements and time frames in which it proposes to implement such improvement measures. However, the County Council may challenge the action plan or any revision. In the event of disagreement between the Councils in relation to an action plan the matter can be referred to the Secretary of State.
- 4.3.5 Failure to comply with the requirement of Part IV of the Act could lead to the risk of the Council being judicially reviewed by any person aggrieved by air quality standards in Northampton. A challenge may also arise if any action plan prepared under Section 84 is perceived to be deficient in any respect, including with regard to the requirements of the Air Quality Objectives established in The Air Quality (England) Regulations 2000.
- 4.3.6 Any variation or revocation of the existing town centre AQMA's could potentially leave the Council open to risk of legal challenge by residents or businesses in the affected areas. Undertaking a thorough consultation exercise and having due regard to the responses will mitigate the risk of challenge. Although any challenge could allege interference with the Claimant's human rights, it is unlikely that the effects of any such decision would be so adverse as to engage their human rights.

4.4 Equality and Health

- 4.4.1 Any Order would apply equally to all persons in the area concerned and would not contain any provisions having different impacts on persons with any protected characteristics.
- 4.4.2 The decision recommended in this report does not have potential to disadvantage or discriminate against different groups in the community. The proposed amendment / revocation of existing AQMAs must by law be based on incidental pollution levels requiring a local authority to declare an AQMA when a national objective level has been exceeded.
- 4.4.3 By declaring / amending an AQMA and delivering an associated action plan, the local authority is effectively taking all steps possible within their power to manage pollution levels in their district.

4.5 Consultees (Internal and External)

4.5.1 The 1995 Act provides the statutory basis for consultation and liaison in respect of LAQM. DEFRA is the key statutory consultee under LAQM. Under Schedule 11 of the 1995 Act the Council must consult the following:

- The Environment Agency;
- Highways England;
- All local authorities' neighbouring the Council's area (South Northamptonshire Council, Daventry District Council, Kettering Borough Council, Borough Council of Wellingborough, Corby Borough Council, East Northamptonshire Council, Milton Keynes Council);
- Northamptonshire County Council;
- Any other public authorities exercising functions in the vicinity of the Council's area; and
- Bodies representing local business interest and other organisations as appropriate.

4.5.2 Local Air Quality Management (Policy Guidance) LAQM.PG16 also advised that local authorities are encouraged to consult widely and consider innovative approaches to engage their local area. In determine how to consult local authorities are likely to have regard to the Consultation Principles issued by the cabinet office at <http://www.gov.uk/government/publications/consultation-principles-guidance>

4.6 How the Proposals deliver Priority Outcomes

4.6.1 Within the Cooperate Plan one priority is identified whereby amendment and revocation of the identified AQMA's help to deliver priority outcomes. This is identified as:

- CP7 – Promoting health and well-being – Meeting the council's responsibility to influence our partners to improve air quality and meet Government minimum targets.

4.7 Other Implications

4.7.1 None

5. Background Papers

Northampton Borough Council Annual Status Report 2018.
Cabinet Report – Air Quality – 13 September 2017

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