

Report

Cabinet Member for Regeneration and Housing

Part 1

Date: 8 August 2017

Subject **Draft Supplementary Planning Guidance to support the adopted Local Development Plan – Proposed Consultation**

Purpose To seek approval to consult on Supplementary Planning Guidance on Air Quality and Development.

Authors Planning Policy Manager and Environmental Health Manager

Ward All wards

Summary Air pollution from road traffic emissions has been linked to cardiovascular disease, asthma, bronchitis, cancer and possibly dementia. The council has the statutory obligation to take measures to maintain and improve air quality. The planning process is one method of achieving this goal. The draft Supplementary Planning Guidance concerning Air Quality and Development has been prepared to support the Local Development Plan adopted in January 2015 and the Draft Air Quality Action Plan. This draft guidance document has been prepared to provide additional detail and guidance on policies concerning air quality in the LDP. It is now proposed to consult on this draft document to seek views of interested parties.

Proposal **That Cabinet Member notes the contents of the proposed Supplementary Planning Guidance document and agrees that the document be released for six weeks' public consultation.**

Action by Head of Regeneration, Investment and Housing

Timetable Immediate

This report was prepared after consultation with:

- Head of Finance
- Head of Law and Regulations
- Head of People and Business Change
- Environmental Health
- Development Management
- Streetscene

Signed

1. Background

- 1.1 Air pollution has been linked to cardiovascular disease, asthma, bronchitis, cancer and possibly dementia. Generally the better the air quality the healthier the population. Each year it is estimated that 1-2 thousand deaths in Wales are linked to poor air quality. The majority are clustered around urban areas. Unfortunately recent studies indicate Newport has some of the worst air quality in Wales.
- 1.2 Air Quality Standards for a range of contaminants have been developed by the World Health Organisation (WHO). These standards have been written into European Union Law, UK Law and Welsh Law. Local Authorities have the statutory duty to investigate, maintain and improve air quality. Currently nine areas of Newport are known to exceed the air quality standards, known as Air Quality Management Areas (AQMA). None of the AQMAs are likely to comply with these standards in the near/midterm without significant intervention.
- 1.3 The Well-being of Future Generations (Wales) Act 2015 recognises the implications of poor air quality on public health. Target No 4. specifically relates to air quality: Levels of Nitrogen Dioxide (NO₂) pollution in the air. As part of an integrated approach across the authority outlined in the draft air quality action plan (in development), the planning system is seen as one method to aid an improvement in air quality. To ensure a robust, consistent approach to air quality is taken, draft supplementary planning guidance (SPG) has been developed.
- 1.4 The Local Development Plan was adopted by Full Council on 27 January 2015 and is now used for Development Management purposes and determining planning applications. The LDP is accompanied by SPG covering topic areas and policies which require more detailed guidance. A Draft SPG has been prepared concerning air quality and new development in order to supplement policies in the LDP and now requires a six week consultation exercise to be undertaken to seek the views of interested parties. The SPG will be used in the determination of planning applications and will be a material consideration following adoption.

2. The Supplementary Planning Guidance

- 2.1 Policy GP7 of the Adopted LDP states that development will not be permitted which would result in or cause unacceptable harm to health because of ...air pollution... or any other identified risk to environment, local amenity or public health and safety. Supplementary Planning Guidance (SPG) has been prepared, setting out additional clarity and guidance to ensure consistency in the way air quality is dealt with through the planning system. The SPG is intended to explain, in detail, the council's approach to air quality and new development.
- 2.2 The planning system plays a key role in protecting the environment and delivering sustainable development. This SPG sets out the circumstances when an assessment for air quality is required and clarifies the appropriate minimum amount of information necessary in an air quality assessment. The primary focus of the SPG is to A – safeguard the health of future site users in areas of known/likely poor air quality; B – Provide practical methods of minimising the use of fossil fuelled vehicles and encouraging low/zero emissions forms of transport where possible.
- 2.3 Development which results in detrimental air pollution will be required to evidence, justify and where relevant, mitigate its impact on air quality. A development must not result in unacceptable harm to human health because of air pollution; this principle is backed up not only by local but national planning policy. This is underpinned by the statutory duty for local authorities to measure and improve air quality where it is found to be failing international air quality standards.

3. Consultation Arrangements

- 3.1 The SPG will be consulted on for a period of 6 weeks. Usual consultation arrangements will be undertaken including a notice in the local press, all documents provided on the Council's website, electronic versions sent to the libraries and targeted consultation letters or emails. SPGs are a

material consideration in the determination of planning applications, with the weight attached increasing if the documents have been subject to public consultation.

4. Financial Summary

- 4.1 The proposed consultation would have a financial cost in terms of advertising and printing. However, the document will be sent out electronically where possible. All relevant information will also be made available on the Council's website. Any costs will be met within the existing Local Development Plan budget.
- 4.2 For the SPG to be given maximum weight by a Planning Inspector as a material planning consideration it must have gone through public consultation and have been adopted through a Council resolution.

5. Risks

Risk	Impact of Risk if it occurs* (H/M/L)	Probability of risk occurring (H/M/L)	What is the Council doing or what has it done to avoid the risk or reduce its effect	Who is responsible for dealing with the risk?
Clarity on certain LDP policies is not provided and the LDP could be left open to interpretation and planning decisions are open to challenge.	L	L	This SPG has been prepared to add clarity and guidance on LDP policies to aid the planning application determination process.	Head of Development Services/Planning Policy Manager
Draft SPG will carry less weight by Planning Inspectors in the determination of planning appeals.	M	L	Draft SPG prepared awaiting public consultation to increase the weight of the SPG and to be followed up with adoption.	Head of Development Services/Planning Policy Manager

6. Links to Council Policies and Priorities

- 6.1 The Local Development Plan is one of the statutory plans the council has to prepare. It determines Newport's land use policies to 2026. Liaison has been maintained with those preparing the other plans to ensure consistency and common purpose. The SPG produced supplements and support the overarching principles set out in the LDP, adding more detail and clarification where required.
- 6.2 The Newport Single Integrated Plan (SIP) is the defining statement of strategic planning intent for the next 3 years. It identifies key priorities for improving the City, including Health and Wellbeing and Safe and Cohesive Communities. The LDP and supporting SPGs has had regard to these principles and will help deliver them through the determination of planning applications.

- 6.3 Newport City Council has five corporate objectives including a Fairer City, Greener and Healthier City and Safer City. The SPG will help deliver the corporate objectives by ensuring development of all scales has considered their impact on air quality appropriately.
- 6.4 Newport City Council is currently under consultation regarding the Well-being of Future Generations (Wales) Act 2015 for which there is a national Target No.4 Levels of Nitrogen Dioxide NO₂ pollution in the air. This SPG will provide support to achieving this target.
- 6.5 Newport City Council's Air Quality Action Plan is currently being redrafted (in progress). This draft air quality SPG will provide significant support in achieving the goals of this strategy.

7. Options Available and considered

- 7.1 Approve the draft SPG for public consultation.
- 7.2 Make amendments to the draft SPG and then approve for consultation.
- 7.3 Do not approve the draft SPG for consultation.

8. Preferred Option and Why

- 8.1 To approved the release of the draft SPG for consultation. This will allow interested parties to provide responses on the proposed policy detail before the Council seeks formally to adopt the document for development management purposes. The weight attached to Supplementary Planning Guidance increases if public consultation is undertaken prior to adoption.

9. Comments of Chief Financial Officer

- 9.1 There will be a financial impact of carrying out the consultation in relation to this report and these will be met from existing Local Development Plan budgets.

10. Comments of Monitoring Officer

- 10.1 There are no legal implications arising at this stage but the consultation responses will need to be carefully considered prior to determining whether or not to adopt the SPG in due course.

11. Comments of Head of People and Business Change

- 11.1 The draft Supplementary Planning Guidance is intended to reduce the health and environmental risks arising from poor air quality. The guidance notes that the economic impacts on a UK basis amount to over £9bn and are greatest in the most disadvantaged areas. The guidance makes reference to the Wellbeing of Future Generations Act 2015 and the particular relevance to the Healthier Wales and Resilient Wales wellbeing goal and the sustainable development principle. Furthermore air quality is a National Indicator under the Act. The guidance sets out welcome additional detail and guidance on air quality management in the Local Development Plan.

12. Comments of Cabinet Member

- 12.1 Cabinet Member has approved the report.

13. Local issues

- 13.1 The SPG will affect all wards in Newport.

Comments from Non-Executive Members

Councillor M Al-Nuaimi

The Air Quality SPG is to be welcome and I fully support the decision to put it out to public consultation.

However on reading the report, I found scarcity of details on what practical measures the SPG offers when it comes to Planning applications considerations. Does the SPG offer or ask the applicant for a statement backed by an expert assessment of what the likely effects of the proposed development on the decline of air quality in the area of the application site? Is there a threshold relating to the size of the development, above which such a statement or assessment becomes necessary? How can the applicant mitigate against the effects in order to address the issues of decreasing air quality?

In my experience as a member of the Planning Committee, I recall the issue of air quality being cited for example in applications in the Caerleon Ward, So I welcome in this report the proposed SPG to be applicable to All Wards, as indeed we have wards in central Newport, where traffic density daily results in poor air quality and this worsening is likely to get even more by the prospects of more development in those wards. The SPG needs to say more about how we should monitor existing air quality at sizable proposed application sites and the predicted air quality when the development is complete and functioning. It should also suggest mitigating measures to ameliorate the adverse effects. For example If it's a large office or housing development, the SPG might consider the necessity for the developer to provide green lung areas , measures to reduce carbon and nitrogen oxide emissions. Provision of Electric/hybrid vehicle charging units comes to mind in order to encourage the use of non-polluting vehicles as well as effective travel plans that reduce the need for car journeys.

What the SPG needs to provide is a clear statement to developers on how to present their proposed applications with sufficient and satisfactory information on how to deal with air quality issues. This is important so that development sites don't become blighted because of air pollution.

Response from Cabinet Member for Regeneration & Housing

Thank you for your queries and your support for the consultation of the supplementary planning guidance on air quality. Please find below a response to your concerns raised during the All Member consultation.

Thresholds

If a major development¹ is proposed, as a minimum, the developer will need to undertake a simple level assessment in the first instance. If this simple assessment highlights a potential impact on air quality then this will lead onto a requirement for the developer to undertake a detailed assessment, which will need to be undertaken by a suitably qualified person.

If an application for development is not considered to be major then its impact on air quality is judged on the type of use proposed and the local environment. Consideration of the impact on air quality, in terms of whether the proposed development will directly impact on an existing Air Quality Management Area or create a new AQMA is key.

With developments that are within the influence of an AQMA, the type of vehicle type is an important factor. A lorry has a different emission profile compared to domestic cars. A single lorry

¹ defined as development involving any one or more of the following: winning or working of minerals, or use of the land for mineral working deposits; waste development; the provision of more than 10 dwelling houses or the site is 0.5ha or larger; the provision of building or buildings where the floor space to be created by the development is 1000sq m or more; or, development carried out on site having an area of 1ha or more.

can emit approximately the same amount of pollution as 10 petrol cars. With this in mind (and other such factors) a simple assessment is asked for in minor developments which compare the current land use to the proposed, i.e. redevelopment to residential of an industrial may result in a net benefit to air quality. Where there is likely to be a net gain in traffic emissions, mitigation proposals are required. This assessment does not necessarily require an expert, whereas a detailed assessment involving modelling is very costly. For the majority of minor developments, the funds are considered better spent on mitigation rather than assessments.

Mitigation

In terms of mitigation, the SPG outlines a sequential approach to this. Initially the applicant should consider mitigation through the design of the development. In some cases it is possible that a scheme can be redesigned in such a way that removes or reduces its impact or the impact of the pollution upon it. Where an air quality impact still exists then the developer can agree a mitigation plan. The SPG sets out a number of mitigation measures in Appendix A and refers to specific actions within Air Quality Management Area Action Plans, but it is felt that as technologies change, so to the mitigation measure available to developers. This SPG does not set out a definitive list of mitigation measures so that new technologies etc. can be accepted in the future without a need to rewrite the guidance. If with the proposed mitigation measures there remains an impact on air quality from or to the development, off site compensation can then be considered in addition to the proposed mitigation measures or there may be sufficient reason to refuse planning permission.

Electric car charging points, car sharing options (such as <https://www.zipcar.co.uk/propertydevelopers>), subsidised public transport, cycle paths/storage and encouragement are all seen as methods to reduce the impact. Providing living lung in the way of tree planting is an additional option; however this does not tackle the source of the pollution and due to the restricted width of the AQMAs is impossible to install. Generally installing green vegetation to offset the air quality impact should be viewed as an addition to the other measures and not a substitute.

Monitoring

With regard to monitoring, Environmental Health has maintained a comprehensive monitoring network across the city which has been undertaken since 2000. This is constantly reviewed and updated as required. With respect to new developments, in the majority of cases it is not possible to link an increase in air pollution from one development to an impact in air pollution. The majority of Air Quality Management Areas (AQMAs) are in areas of existing congestion where residential properties abut or are very close to the kerb. If a development is proposed within close proximity to an existing AQMA, Environmental Health monitors the situation to determine if there is any significant impact. However, as developments usually take years to complete and there is generally an improvement in engine technologies / uptake but a net gain in traffic volume it is not a simple matter to attribute an impact to a single development. Furthermore, the planning system requires the proposal to be assessed for its suitability upfront and mitigation proposed at that stage.

14. Scrutiny Committees

14.1 The SPG has not been through a Scrutiny Committee.

15. Equalities Impact Assessment and the Equalities Act 2010

- 15.1 The Equality Act 2010 contains a Public Sector Equality Duty which came into force on 06 April 2011. The Act identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership. The new single duty aims to integrate consideration of equality and good relations into the regular business of public authorities. Compliance with the duty is a legal obligation and is intended to result in better informed decision-making and policy development and services that are more effective for users. In exercising its functions, the Council must have due regard to the need to: eliminate unlawful discrimination, harassment, victimisation and other conduct that is prohibited by the Act; advance equality of opportunity between persons who share a protected characteristic and those who do not; and foster good relations between persons who share a protected characteristic and those who do not. The Act is not overly prescriptive about the approach a public authority should take to ensure due regard, although it does set out that due regard to advancing equality involves: removing or minimising disadvantages suffered by people due to their protected characteristics; taking steps to meet the needs of people from protected groups where these differ from the need of other people; and encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

16. Children and Families (Wales) Measure

- 16.1 Although no targeted consultation takes place specifically aimed at children and young people, consultation on planning applications and appeals is open to all of our citizens regardless of their age. Depending on the scale of the proposed development, applications are publicised via letters to neighbouring occupiers, site notices, press notices and/or social media. People replying to consultations are not required to provide their age or any other personal data, and therefore this data is not held or recorded in any way, and responses are not separated out by age.

17. Wellbeing of Future Generations (Wales) Act 2015

- 17.1 Section 3 of the Wellbeing and Future Generations Act imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs (section 5). The Local Development Plan is considered to provide a policy framework for the achievement of sustainable development. This guidance documents provide detail as to how the policies should be applied; therefore it is considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the supplementary planning guidance.

18. Crime and Disorder Act 1998

- 18.1 Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the consultation of these guidance documents.

19. Consultation

- 19.1 The draft document has been through consultation with internal council departments and has not been made publically available.

20. Background Papers

- 20.1 Draft Development Management Air Quality SPG



Draft Air Quality SPG
for consultation.docx

Dated: 8 August 2017