

MAIDSTONE BOROUGH LOCAL PLAN EXAMINATION

<http://www.maidstone.gov.uk/residents/planning/local-plan/examination>

*Written Statements in response to the questions are invited by
Wednesday 7 December 2016*

SESSION R6 – AIR QUALITY

Inspector's Agenda with Matters, Issues, and Questions

1. INTRODUCTION

Issue: Whether the Local Plan is consistent with national policy in relation to air quality impacts.

- 1.1. Maidstone town is designated as an Air Quality Management Area because of the poor quality of air arising particularly from road traffic emissions and especially nitrogen dioxide.
- 1.2. This reserve session has been arranged primarily to address matters and issues arising out of the recent quashing by the High Court of the national Air Quality Plan (2015) [*ClientEarth v SoS EFRA, [2016] EWHC 2740 (Admin)*] and any implications of that decision for the submitted Local Plan.
- 1.3. Defra have announced that they will not appeal the decision and parties have been asked to return to court urgently to identify the actions and timescales proposed to address the non-compliance. This is likely to require the preparation of a new national Air Quality Plan in 2017.
- 1.4. One potential action referred to in the court ruling would be the extension of 'Clean Air Zones' to many more towns and cities with air quality issues than had been proposed in the 2015 Air Quality Plan.
- 1.5. Consideration is needed as to whether the Local Plan includes suitable policies and monitoring arrangements to support air quality improvement objectives, whether or not it becomes a candidate for a Clean Air Zone.

2. NATIONAL PLANNING POLICY AND GUIDANCE

2.1. Paragraph 124 of the National Planning Policy Framework provides that:

'Planning policies should sustain compliance with and contribute towards EU limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and the cumulative impacts on air quality from individual sites in local areas. Planning decisions should ensure that any new development in Air Quality Management Areas is consistent with the local air quality action plan'.

2.2. The national Planning Practice Guidance at paragraph 32-002-20140306 provides further advice:

Local Plans can affect air quality in a number of ways, including through what development is proposed and where, and the encouragement given to sustainable transport. Therefore in plan making, it is important to take into account air quality management areas and other areas where there could be specific requirements or limitations on new development because of air quality. Air quality is a consideration in Strategic Environmental Assessment and sustainability appraisal can be used to shape an appropriate strategy, including through establishing the 'baseline', appropriate objectives for the assessment of impact and proposed monitoring.

Drawing on the review of air quality carried out for the local air quality management regime, the Local Plan may need to consider:

- the potential cumulative impact of a number of smaller developments on air quality as well as the effect of more substantial developments;*
- the impact of point sources of air pollution (pollution that originates from one place); and,*
- ways in which new development would be appropriate in locations where air quality is or likely to be a concern and not give rise to unacceptable risks from pollution. This could be through, for example, identifying measures for offsetting the impact on air quality arising from new development including supporting measures in an air quality action plan or low emissions strategy where applicable.*

3. INTERNATIONAL, NATIONAL AND REGIONAL POLICY FOR AIR QUALITY

EU Air Quality Directive

- 3.1. Directive 2008/50/EC on ambient air quality and cleaner air for Europe. The High Court ruled that the Air Quality Plan breached article 23(10) of the Directive and also Regulation 26(2) of the Air Quality Standards Regulations 2010.

National Air Quality Plan

- 3.2. The national Air Quality Plan was published by the Government in December 2015 in response to the EU Directive. It replaced a previous strategy that had also been quashed by the Supreme Court on the grounds of non-compliance. The quashed Air Quality Plan includes a list of UK and national measures which are to be read alongside the individual zone plans for the 38 air quality zones still to meet the EU nitrogen dioxide limits. The latter zones include South East England and there is an: '*Air Quality Plan for the achievement of EU air quality limit values for nitrogen dioxide in South East.*'
- 3.3. This AQP for the South East includes Maidstone. 33 measures are listed that are intended to be taken to improve air quality in Maidstone. Amongst other things they include references to: traffic management; public transport improvements; modal shift; park and ride; and to the preparation of an Air Quality Supplementary Planning Document.
- 3.4. The measures have start dates ranging from 2011 to 2014 and are apparently drawn from the *Maidstone Town Air Quality Action Plan 2010*. This may explain why some of the references now appear to be out of date.

Clean Air Zones

- 3.5. The effect of the latest High Court judgement is to quash the AQP as inadequate both in extent and urgency to address the non-compliance with the Air Quality Directive. The ruling identified that Clean Air Zones were likely to form part of an appropriate response but that their number would increase from 6 to more cities and that measures would need to be introduced more quickly to ensure that compliance was achieved as early as possible and potentially before 2020.

- 3.6. In October 2016, before the high court case was heard, the government issued a consultation on a '*Draft Clean Air Zone [CAZ] Framework*'. This would provide for the designation of zones (with or without charges for entry) in towns or cities with air quality problems. <https://consult.defra.gov.uk/airquality/implementation-of-cazs> .

QnR5.1 Has Maidstone BC commented on the consultation or does it intend to do so?

- 3.7. The CAZ Framework set out the principles for the operation of CAZs in England and outlines the approach that should be taken by LAs to implement and operate a CAZ, which was to be introduced in five cities by 2020 together with measures already announced for London. Section 2 of the draft framework sets out how CAZs are expected to deliver in three areas:
- supporting local growth and ambition (decoupling growth and pollution);
 - accelerating the transition to a low emission economy;
 - immediate action to improve air quality and health.
- 3.8. The consultation draft provides that as a minimum any Clean Air Zone is expected to:
- be in response to a clearly defined air quality problem and ensure this is understood locally;
 - have in place signs along major access routes to clearly delineate the zone;
 - be identified in local strategies including (but not limited to) local plans and policies and local transport plan at the earliest opportunity to ensure consistency with local ambition;
 - provide active support for ultra-low emission vehicle take up through facilitating their use;
 - include a programme of awareness raising and data sharing;
 - include local authorities taking a lead in terms of their own and contractor vehicle operations and procurement in line with this framework;

- ensure bus, taxi and private hire vehicle emission standards are improved to meet Clean Air Zone standards using licensing, franchising or partnership approaches as appropriate; and
- support healthy, active travel.

3.9. The draft describes a Clean Air Zone is a positive attractive asset for a city, and the businesses based there. The zone is to integrate with, and support, wider plans and ambitions for growth.

3.10. Of particular relevance to the Local Plan the consultation draft provides that:

- Where a Clean Air Zone is introduced it should be identified in the local plans and policies and local transport plan at the earliest opportunity to ensure it is consistent with wider ambition.
- The national Planning Practice Guidance will be updated to include reference to the UK plan for nitrogen dioxide and to reflect the introduction of Clean Air Zones.
- In granting planning permission appropriate mitigation should be considered as set out in the Planning Practice Guidance, including the use of planning conditions and obligations. Options might include steps to support Ultra Low Emission Vehicles (ULEV) in developments in Clean Air Zones; requirements to support parking and recharging of Clean Air Zone compliant vehicles; and design and support for public transport, walking and cycling accessibility.

DEFRA Letter from Dr Therese Coffey MP

3.11. Very recently, on 14 November 2016, the Parliamentary Under Secretary of State at DEFRA wrote to Maidstone Borough Council (Exam Document ED 075A). She wished to know if there are there are specific local challenges that are proving hard to resolve. She also asked to receive an update on the Council's plan to reduce pollutants in the AQMA(s) to compliant levels. Amongst other things she sought to remind the Council that it already has powers to establish a Clean Air Zone on a voluntary basis and to refer to the recent launching of a round of Air Quality Grants for which all local authorities are eligible to bid

<http://laqm.defra.gov.uk/laqm-faqs/faq137.html>) .

- 3.12. Helen Grant MP is pressing for an emissions reduction plan and has pointed to a discretionary power of the Government to require responsible authorities to contribute to any infraction fine that results from legal action by the European commission (ED 075).

QnR5.2 How does MBC intend to respond to the Government letter?

QnR5.3 Should the possibility of designating a Clean Air Zone be referred to in the Local Plan whether as an alternative to, or in addition to, the Low Emission Strategy and alongside the references to investigation of the Leeds-Langley Bypass?

4. LOCAL TRANSPORT PLAN

- 4.1. The current Kent County Council Local Transport Plan 3 2011-2016 (LTP3) makes a number of references to air quality issues including promotion of the use of low emission vehicles. However at paragraph 9.17 it states: '*the ultimate solution is to reduce traffic levels on Kent's network by promoting modes that have little impact on their surroundings areas such as public transport, walking and cycling.*' Specific measures in LTP3 to mitigate air quality included the Maidstone Traffic management centre to coordinate traffic signals (already implemented in LTP2) and the Fastrack Bus Rapid Transit System in Kent Thameside. The Table 9.1 Implementation Plan defines as the only measure to support Air Quality Action Plans: '*Provision of bus priority and traffic management measures to reduce congestion and improve traffic flow in Air Quality Management Areas*'.
- 4.2.** One of the intended outcomes of consultation draft KCC Local Transport Plan 4 2016-2031 (TRA 034) is to implement measures to improve local air quality. A Countywide priority is to address congestion by creating an integrated public transport network to increase access without the need for a private car. In Maidstone the draft LTP4 refers to the Maidstone Air Quality Management Area in the context of peak period congestion. It comments that a scheme to relieve congestion at the Bridges Gyratory is being implemented but that traffic growth elsewhere on the network is expected to worsen delays for road users, especially on the south eastern A229, A274 and north western A20 corridors. The consultation refers to unspecified

A229/A274 corridor capacity improvements, public transport measures and an Integrated Transport Package but provides little detail.

5. THE LOCAL PLAN

Sustainability Appraisal

- 5.1. At paragraph 18.4.1 the Sustainability Appraisal Report for the submitted Local Plan (February 2016) (Document SUB 002(b)) states: '*.. there is potential for negative effects on the health and wellbeing of communities in the urban area due to the potential for increased congestion and poorer air quality associated with housing and employment growth. Policies in the Local Plan that seek to encourage sustainable modes of transport (DM24-DM26), and to improve the road networks to support new development should help to mitigate these impacts to an extent, but the impacts are unclear at this stage.*'
- 5.2. The appraisal does not refer to the baseline position on air quality suggested by the national PPG.

Development Management Policies

- 5.3. Policy DM5 Air Quality was discussed at Session 11. It is directed at decision-making on individual development proposals and in summary seeks the identification of air quality impacts and minimisation/mitigation where there would be negative effects on air quality in the Air Quality Management Area and especially affecting Air Quality Exceedance Areas.
- 5.4. The policy lacks clarity and is to be redrafted to establish a clearer hierarchy of impacts and appropriate responses when development would affect air quality in the Air Quality Management Area, at Air Quality Exceedance locations and local communities elsewhere.

QnR5.4 Has MBC drafted a revised policy DM5?

- 5.5. The reasoned justification makes reference to the Local Air Quality Management Regime, the Air Quality Action Plan, the Integrated Transport Strategy and the emerging Low Emission Strategy which it is said will '*outline the principles behind defining the scale of development and its likely*

impact depending on its locations and proximity to exceedance areas and the public'.

Monitoring

- 5.6. In the submitted Local Plan Key Monitoring Indicator 9 relates to Policy DM5 Air Quality and the transport policies DM25-DM26. The stated targets are to implement transport schemes in the Integrated Transport Strategy, to require a travel plan for all development above relevant thresholds , and for an emissions statement and mitigation measures for development affecting Air Quality Management Areas or of sufficient scale to impact local communities (elsewhere). With regard to the Planning Practice Guidance There is no defined baseline for assessing air quality impacts and no monitoring mechanism of performance against such a baseline.

QnR5.5 Having regard to the above Planning Practice Guidance are the monitoring targets in relation to air quality adequate or should there be monitoring against a defined baseline or to the limits set out in the EU directive or national regulations?

Maidstone Town Air Quality Action Plan 2010

- 5.7. Whilst the Action Plan included park and ride car park provision as a means to reduce the number of cars entering the town Maidstone BC have since abandoned a proposal in the adopted Local Plan 2000 for a new park and ride car park at Langley Park on the A274 (Policy T17(iii)). Provision in draft versions of the submitted Local Plan which would have increased the provision of park and ride car parks at Sittingbourne Road (by extension) and at Linton Cross Roads have also been deleted from the submitted plan. Moreover MBC has closed the existing park and ride facility at Sittingbourne Road.
- 5.8. A Quantitative Appraisal of the Air Quality Action Plan was published in April 2014 during an earlier stage of preparation of the Local Plan when development of about 10,000 dwellings was being proposed to 2026 including a new 5,000 dwelling settlement and link road in SE Maidstone (Document ORD 004). It is therefore of limited application to the spatial strategy now proposed. However its conclusions indicate that Nitrogen

Dioxide levels would still be exceeded at most of the identified locations where base levels were already above recommended levels. It also recommended that the Air Quality Action Plan be updated with additional measures.

- 5.9. The MBC Integrated Transport Strategy at paragraph 4.22 stated that it was anticipated that the AQMA and the Air Quality Action Plan will be reviewed in 2016.

QnR5.6 How is the Air Quality Action Plan being monitored?

QnR5. Is there any evidence of a reduction in Nitrogen Dioxide levels in the AQMA or at the air exceedance locations in the 6 years since the Action Plan was adopted?

QnR5.7 Does the Air Quality Action Plan require updating and, if so, when will that be done?

Draft Low Emission Strategy - January 2016

- 5.10. A draft Low Emission Strategy has been published by MBC. It includes broad objectives to achieve a higher standard of air quality and to reduce emissions through an integrated approach covering all policy areas but concentrates on tackling emissions from vehicles, especially buses, taxis, freight vehicles and Council vehicles. These generally seek to encourage the use of vehicles with lower emissions. In relation to cars it refers to the possibility of providing electric charging points or a gas charging station but these appear to relate to small numbers of cars relative the current exceptionally high usage of petrol and diesel vehicles for most journeys in the town. Some of these measures overlap with those suggested for Clean Air Zones.
- 5.11. In relation to planning the document refers to mitigation funding from new development with air quality impacts or that consideration be given to refusal of planning permission.

- 5.12. The draft Strategy does not seek to define the scale of development or its impacts as was suggested in the reasoned justification to Policy DM5. Instead it suggests that Supplementary Planning Guidance would include the integration of mitigation measures into scheme design or a damage cost approach to inform the scale of mitigation required. There is no reference to such guidance or to a Supplementary Planning Document in the submitted local plan.
- 5.13. Finally the draft Low Emission Strategy again points to the need to update the Air Quality Action Plan.

QnR5.8 Does the reasoned justification to Policy DM5 require amending to make clear how and where the scale of relevant development that may have air quality impacts and the associated need for mitigation will be defined?

Integrated Transport Strategy – September 2016 (ITS)

- 5.14. Objective 1 of the ITS 'Enhancing and encouraging sustainable travel choices' includes the development, maintenance and enhancement of public transport provision, including Park and Ride. However no additional park and ride provision is proposed either in the ITS or in the Local Plan.
- 5.15. Objective 4 is 'Reducing the air quality impacts of transport.' The ITS quotes examples of successful modal shift in other towns. The ITS public transport actions include improving bus frequencies and also providing bus priority measures on strategic routes linking the town centre to residential developments and key local amenities.
- 5.16. Amongst other measures the ITS seeks to control demand for parking in the town centre by increasing parking charges by 50%. However this would only apply to long stay parking and is to be implemented 'by 2031', some 15 years in the future. There is also a commitment in the ITS to maintain the current level of parking provision in the town centre. At the Transport Session it was indicated that there is already sufficient parking capacity in the town centre to support a significant increase in vehicle flows.

QnR5.9 Would the above ITS parking actions make any contribution to reducing congestion or the air quality impacts of transport in the foreseeable future?

- 5.17. The Maidstone BC Integrated Transport has been adopted by MBC but has not been agreed by Kent CC. .

Local Plan Representations

- 5.18. A number of representations refer to adverse air quality impacts arising out of increased traffic to be generated by new development. There are related objections to any increase in congestion. These are typically cited as reasons to reduce the overall amount of growth proposed in the Plan. However that would not accord with Government objectives to support local growth and ambition by decoupling growth and pollution. It also does not address how the housing and employment needs might be accommodated elsewhere with less impact on air quality.
- 5.19. Kent CC has objected that even after mitigation to increase junction capacity the additional congestion in South East Maidstone would be severe. Maidstone BC disagrees.
- 5.20. Kent CC object to references in the Local Plan to bus prioritisation measures if they would disadvantage other road users (including motorists). It has refused to implement bus priority measures on the A274 Sutton Road which are included in the adopted Local Plan 2000 (policy T2) and for which developer funding has already been provided in association with the development of sites that were allocated for development in that Local Plan. Policy T17 of the current local plan specifically linked park and ride provision to complementary public transport preference measures in policy T2. Kent CC has provided a 2014 letter from its cabinet member opposing bus priority measures in Sutton Road notwithstanding that these were included in the adopted Local Plan and were cited in LTP3 as a means to improve air quality through modal shift (ED 076A). The April 2016 A274 Corridor Study indicates that there would be no significant disadvantage for other road users if a bus lane is created along Sutton Road.

- 5.21. Some representations criticise the closure of the Sittingbourne Road park and ride car park and the lack of additional provision for park and ride car parks. The Council has previously secured funding for additional park and ride provision but has decided not to use it for that purpose.

QnR5.10 Does what the High Court describes as the urgent need for measures to address the current infraction of Nitrogen Dioxide pollution limits require more radical measures to encourage modal shift for journeys into Maidstone town centre so as to reduce the number of vehicles entering the town from both existing and proposed development?

QnR5.11 In particular, given the concentration of development close to a high frequency bus route in South East Maidstone, should the current Local Plan's bus lane proposal be reinstated along Sutton Road as a firm plan policy in order to encourage modal shift to a more reliable and (low emission) bus service to the town centre and to Maidstone East railway station?

QnR5.12 Would the potential benefits from modal shift for improved air quality and reduced congestion outweigh the loss of part or all of the grass verge in Sutton Road?

QnR5.13 As Countryside Properties have given evidence that they would only be able to implement allocation H(10) Land South of Sutton Road at a rate that would deliver about 650 out of 800 dwellings within the plan period, should that 800 allocation be reduced by 100-200 dwellings in order to accommodate a park and ride site within the H1(10) allocation that would also make use of the above bus lane?

QnR5.14 Should the Local Plan commit to identifying additional park and ride locations to the north and south of the town as proposed in earlier drafts?

QnR5.15 Should the creation of additional park and ride spaces be matched by a reduction in long stay car parking in the town centre notwithstanding the ITS commitment to maintain the present number?

