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Imperial College
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Construction, Planning and Guidance

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Bit of context

- I have a hard hat but I am not part of the construction industry
- My background is EH, not planning
- Most recently I have spent a fair amount of life with LAQM

Quick recap – Planning (1)

Section 70(1) of the Town and Country Planning Act 1990 (TCPA 1990) empowers a LPA to grant planning permission with or without conditions, or to refuse it - and under section 70(2) to have regard to:

- a) the provisions of the development plan, so far as material to the application;
- b) any local finance considerations, so far as material to the application; and
- c) any other **material** considerations.

What is a material consideration?



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Recap – Planning (2)

- AQ is a **material consideration**
- This means that LPA are under a **legal duty** to take AQ into account in determining planning applications.....a failure to do so could lead to a planning decision being judicially reviewed and potentially quashed.
- LAs must consider any **adverse effects** which a proposed development may have **on local air quality**
- and whether **existing air quality** levels may have **adverse effects on the proposed development**.
- (It remains for the decision maker to decide the weight to be given to each material consideration in the context of each application.)

How can this be done?



The Interaction Between Land Use Planning and Environmental Regulation

ANNEX A: REFERENCES

DEFRA (2003)DEFRA (2004)	Department of the Environment, Food and Rural Affairs, <i>Integrated Pollution Prevention and Control: A Practical Guide</i> , Edition 3, February 2004
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Planning shapes the work and the country in supporting the Government's environmental and sustainable communities



PLAN
Planning Policy
Planning and

Air Quality

Revised

The London Air Pollution (A



Land-Use Planning & Development Control: Planning For Air Quality

Guidance from Environmental Protection UK and the Institute of Air Quality Management for the consideration of air quality within the land-use planning and development control processes.

May 2015 (v1.1)



Best

Produced in partnership by the Greater London

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SUSTAINABLE DESIGN AND CONSTRUCTION SUPPLEMENTARY PLANNING GUIDANCE

APRIL 2014



MAYC

LONDON PLAN 2011
IMPLEMENTATION FRAMEWORK

MAYOR OF LONDON

London Plan (material consideration)

The **London Plan** 2011, is the overall strategic plan for London

A further minor 'alteration' is expected in spring 2016 to refine policy on housing and parking standards.

The London Plan:

- emphasises the importance of air quality.
- Chapter 7, Air and Noise Pollution, Policy 7.14, Improving Air Quality
- provides that the Mayor will, and boroughs should, implement the Mayor's Air Quality Strategy and achieve reductions in pollutant emissions and public exposure to pollution.
- New developments should be "*air quality neutral or better*", making better use of the planning system to ensure no new development has a negative impact on air quality in London
- The London Air Quality strategy outlines the need to ensure that the impacts of new developments on air quality are mitigated as far as possible and that development is both sustainable and viable
- The plan also acknowledges that **more can be done at the construction stage**, advocating the adoption of Best Practice Guidance for the demolition and construction phases of development, including clear advice for air pollution mitigation measures

Local Plans/ NPPF

- LPA must prepare a plan for their area known as a local development plan.
- The national policy context was renewed in March 2012 by the National Planning Policy Framework (NPPF).
- This set out a framework vision of the Government's planning policies for England
- The NPPF is a **material consideration** in both the preparation of development plans, and in making planning decisions.
- The NPPF reiterates some key principles including promoting relevant EU obligations and statutory requirements. These include the obligations in the Air Quality Directive 2008.
- The NPPF sets out a presumption in favour of SD.

NPPF contd.

- Significantly, the NPPF provides that the planning system should contribute to and enhance the natural and local environment by “preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, **air**, water or noise pollution or land instability

NPPF contd.

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

NPPF cont.

The approach of the NPPF to air quality issues allows for expansive considerations relating to air quality to fall within its scope.

This gives local authorities significant influence over air quality impact where planning powers are properly utilised.

In some cases, air quality issues within AQMAs may be so significant that planning permission is refused altogether.

AIR QUALITY

March 2016 Issue 119

BULLETIN

HABITATS

NO_x impact quashes houses

Wealden Council has succeeded in preventing housing that could increase nitrogen deposition in the sensitive Ashdown Forest habitat.

The council – through its local plan – has championed its right to set a numerical ceiling on new housing and traffic in a bid to stop incremental worsening of NO_x deposition in NO_x-sensitive heathland in Sussex.

Large developments got in first – but then Wealden drew the line at a 100-home development by Knight Developments in Crowborough. The incremental traffic and visitors (mostly dog walkers) were deemed to breach the limit and the development was

turned down (*AQB March 2014 p2*).

Developers appealed – and at the last minute suggested mitigation which swung the original appeal inspector: “The impact of the proposal on its own would be insignificant, but adopting the precautionary approach required under the Habitats Regulations, there was a low risk of a significant in-combination effect. However, the contributions by Knight towards a Strategic Access Management and Monitoring Strategy (SAMMS) for habitat management would outweigh the harm, if any, from nitrogen deposits. With this mitigation, the proposal would not be likely to have a significant

effect on the heaths and so no ‘appropriate assessment’ under the Habitats Regulations was required.”

This reliance on the SAMMS formed a key part of the latest challenge in the High Court with the developer advised by Claire Holman of Brook Cottage Consultants and the council advised by Duncan Laxen of AQC.

Holman claimed extra traffic could be screened out by using DMRB or Environment Agency methodology. The council disagreed.

The High Court judge ruled this month: “Having considered the evidence and the submissions of the parties, I

● Continued on p3

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LONDON LOCAL AIR QUALITY MANAGEMENT (LLAQM) Policy Guidance 2016 (LLAQM.PG (16))

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London LAQM

Borough Air Quality Action Matrix – DRAFT FOR CONSULTATION

1. Introduction

This Matrix outlines 39 actions for boroughs to consider delivering locally as part of their London Local Air Quality Management action planning obligations. This is not an exhaustive list, and the actions are not obligatory. It is a list of actions which utilise the levers that are under borough control which may be used to improve air quality. Where possible each action includes: examples/case studies, an assessment of the possible benefits, and a provisional assessment of high-level risks.

The actions have been assessed against the perceived ease of delivery and the possible magnitude of air quality benefits, and these scores are then multiplied to give a priority rating (the highest being 1 and the lowest 15). In reality, the ease of delivery and possible benefits will clearly vary very significantly from borough to borough and will depend on the characteristics of the individual projects; these ratings should therefore be viewed as an indicative guide only, and boroughs will obviously need to consider local conditions when assessing the potential ease and benefits of actions.

The Matrix actions are divided into 6 categories: Emissions from developments and buildings; Public health and awareness raising; Delivery servicing and freight; Borough fleet actions; Localised solutions; and Cleaner transport. This document begins with a Main Table, summarising the actions and their priority level ratings. Each action within this Main Table contains internal links which lead to more detailed information on the action.

The Matrix will be a living document; it will be refreshed every two years, at which time actions may be added, removed or modified.

2. Key

Ease of Delivery	Magnitude of Air Quality Benefits	Priority Level
Straightforward= 1 Medium = 2-4 Most Difficult = 5	High = 1 Medium = 2 Low = 3	<i>Ease of Delivery x Magnitude of AQ Benefits = Priority Level Score</i> High = 1- 5 Medium = 6-10 Low = 11- 15

LLAQM(2)

Theme	Action #	Measure (click on the internal links below to find more detail on each measure)	Ease of Delivery	Magnitude of Air Quality Benefits	Priority Level
Emissions from developments and buildings	1	Ensuring emissions from construction are minimised	2	n/a (Benefits potentially significant but unquantifiable)	2
Emissions from developments and buildings	2	Ensuring enforcement of Non Road Mobile Machinery (NRMM) air quality policies	2	n/a (Benefits potentially significant but unquantifiable)	2
Emissions from developments and buildings	3	Enforcing CHP and biomass air quality policies	2	n/a (Benefits potentially significant but unquantifiable)	2
Emissions from developments and buildings	4	Enforcing Air Quality Neutral policies	2	n/a (Benefits potentially significant but unquantifiable)	2
Emissions from	5	Ensuring adequate, appropriate, and well located green space and infrastructure is included in new developments	2	n/a (Benefits potentially	2

Concrete firm handed hefty fine for Ealing dust emissions

📅 11.02.2016
☰ NEWS
👤 MICHAEL HOLDER

A concrete supplier in Ealing faces fines and costs totalling more than £120,000 after pleading guilty to environmental offences involving air pollution emissions and spillages at its Horn Lane site.

Hanson Quarry Products Europe Ltd, trading as Hanson Concrete, was sentenced at Uxbridge Magistrates' Court on Tuesday (February 2) having previously pleaded guilty to five offences carried out between May 2014 and April 2015 in the West London borough.

Ealing council said the action brought by its officers sent a "clear message" that the authority would "pursue companies that fail to operate responsibly".

Described as the UK's largest manufacturer and supplier of ready-mixed concrete, the firm



Dust blown up by lorry manoeuvring at western



Thank you for listening



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