

## **KIRKLEES DEVELOPMENT TEAM**

### **ADVICE FOR DEVELOPERS**

#### **WHY SHOULD I READ THIS?**

Poor air quality is a significant public health issue and pollution limits are set out in the form of National Air Quality Objectives (NAQOs). These objectives are written into law by the Environment Act 1995 and accompanying regulations as well as the Policy, Guidance and Strategy documents produced by the Department for Environment, Food and Rural Affairs (DEFRA) as part of the Local Air Quality Management (LAQM) system. These pollutants are mainly in the form of gases such as nitrogen dioxide, carbon monoxide, lead, sulphur dioxide and fine particles. These pollutants have the potential to cause ill health and should be managed where possible before they reach the Air Quality Objectives limits.

These objectives are written into law by the Environment Act 1995 and have been set for health-based air pollutants in the Air Quality (England) Regulations 2002. Under this legislation, local authorities have a legal duty to work towards meeting these AQOs in their areas. In addition, ambient (or outdoor) air quality was made a material consideration in the planning process. The [National Planning Policy Framework](#) (NPPF) and National Planning Policy Guidance ([NPPG air quality](#)), sets out the Government's planning policies for England and how these should be applied, including air quality. Therefore, the determination of a planning application in accordance with the [NPPF](#) will depend on the merits and circumstances, and each decision must be weighed in the balance against all relevant factors. Paragraph 186 states:

*“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.”*

The local planning authority is responsible for determining the importance of the impact on air quality when evaluating a planning application and whether proposed mitigation measures are acceptable. Any agreed-upon actions will be carried out under condition, if applicable, or with the aid of Section 106 agreements.

#### **CONSIDERATION OF AIR QUALITY USING THE PLANNING PROCESS IN KIRKLEES**

To ensure that the air quality impact of new developments is adequately considered within the planning process, developers will have due regard to The West Yorkshire Low Emissions Strategy (WYLES) [WYLES Air Quality and Emissions Planning Technical Guidance](#).

This guidance is aimed at helping planning authorities' deliver National Air Quality Objectives (NAQO) through cost effective service planning and forms part of the overarching WYLES with a vision of Delivering Cleaner Air for all in West Yorkshire. The West Yorkshire Low Emission Strategy has been developed through collaboration between the West Yorkshire local authorities (Bradford MDC, Calderdale MBC, Kirklees MDC, Leeds CC and Wakefield MDC); West Yorkshire Combined Authority (WYCA) and Public Health England (PHE). The strategy outlines what the key challenges are in relation to air quality within West Yorkshire and how, together, we can deliver cleaner air for all to create a healthier place for people to live, work and visit. It considers a number of areas such as economic and transport plans, changes in energy production and use, land-use planning, supporting walking and cycling and tackling transport emissions.

The WYLES guidance provides the regional framework and requirements for a developer to fully consider the impact of new development on local air quality within Kirklees, and whether future occupiers will be exposed to high levels of pollutants. The process is based on the applicant determining the relative air quality impact of new developments, and then proposing proportionate mitigation, considering this impact. This guidance is currently under review; however, the underlying principles of the guidance will remain consistent.

Underlying the WYLES, the Institute of Air Quality Management (IAQM) and Environmental Protection UK (EPUK) have developed [air quality and planning guidance](#) (widely used throughout the UK by both developers and local authorities) which provides more technical detail on air quality assessments and mitigation requirements. The IAQM/EPUK guidance is therefore consistent with the requirements of the WYLES guidance.

Kirklees has an Air Quality Strategy and annually reviews local air quality and publishes a Local Air Quality Management [Annual Status Report](#) . To date, Kirklees has declared ten Air Quality Management Areas (AQMAs). An AQMA is an area where the levels of a certain pollutant are above the National Air Quality Objectives required by legislation for health reasons. Any declaration means that further monitoring of that pollutant has to be undertaken and an [Air Quality Action Plan](#) put in place to improve the air quality within it.

The use of the planning regime to improve local air quality is an important part of the Action Plan, and Action G14 of the Plan states:

*“Assess planning applications in accordance with procedures in the WYLES Planning Guidance Document and require the relevant mitigation included on development”*

As a result of the Environment Act 2021, it is likely that more stringent air quality objectives may be proposed in the future for various air pollutants (i.e., fine particles referred to as PM<sub>2.5</sub>), along with a greater onus on local authorities to meet the legal AQOs.

#### **WHAT IS AN AIR QUALITY ASSESSMENT?**

An air quality assessment determines the impact of the development on local air quality, during both the construction and operational phases of the development.

New developments can have a detrimental impact on air quality caused by the generation of additional pollution, either directly by new on-site processes or by emissions due to an increase in traffic levels and/or congestion. Therefore, some planning applications will need to consider the effect that the development will have on air quality, or the effect that local air quality will have on the development (for instance proposing residential developments in locations of poor air quality where there has been no previous relevant human exposure).

Advice on air quality impact assessments is given within the [WYLES Air Quality and Emissions Planning Technical Guidance](#) and IAQM/EPUK [air quality and planning guidance](#) documents. Applicants are encouraged to contact Planning and Development Service to discuss the full extent of an air quality impact assessment, and it may be that a [pre-application enquiry](#) is required. In general, an air quality impact assessment will determine the existing background pollutant concentrations in the locality of the proposed development and predict the pollution concentrations with the development in place. If necessary, it will also include measures to mitigate or minimise the air quality impacts of the development.

### **DO I NEED AN AIR QUALITY ASSESSMENT?**

Discussion with Planning and Development Services, along with reference to the guidance documents linked to this advice note, will determine the requirement for an air quality assessment. Contact information for Planning and Development Service is provided below and for pre-application enquires. Click [here](#) for further information.

Use of the [WYLES Air Quality and Emissions Planning Technical Guidance](#) and IAQM/EPUK [air quality and planning guidance](#) referenced within this document, along with a pre-application discussion with Planning and Development Service will determine the necessity of an assessment, and the specific issues to be addressed.

The assessment usually consists of two sections, these being a construction phase assessment considering emissions to air during all phases of construction of the development. Applicants are advised to refer to the [IAQM guidance](#) to assist them with the drafting of this assessment.

Following this, the operational phase assessment will consider mitigation of the air quality impact of the operational phase of the development to make it acceptable. The Council is very keen to prevent “emission creep” from ongoing and cumulative development – appropriate mitigation of even minor development will therefore be required.

Generally, a detailed air quality assessment is required for the operational phase. This involves dispersion modelling to predict changes in air pollutant concentrations because of the proposed development for comparison against legal air quality objectives.

If a detailed air quality assessment is required, the latest local air pollution monitoring data are available from Kirklees Council’s latest air quality [Annual Status Report](#) . This can be found on the Councils website.

For larger or more polluting developments a damage cost calculation may be required. This is to determine the amount (value) of mitigation required to offset the detrimental impact that the development will have on air quality. All proposed air quality mitigation measures will need to be approved by the Local Planning Authority to make the development acceptable (criteria within the WYLES AQ and Planning Guidance will determine whether a damage cost calculation is required and the methodology to be followed).

Should the development be considered unacceptable on-air quality grounds, officers reserve the right to recommend proposal refusal.

### **WHAT INFORMATION DO I NEED TO PROVIDE**

#### **An air quality assessment**

This work requires detailed information, particularly about traffic movements, and it will normally link closely to transport assessments. For larger developments, this information will be part of an Environmental Impact Assessment. The general requirements are discussed within the [WYLES Air Quality and Emissions Planning Technical Guidance](#) and IAQM/EPUK [air quality and planning guidance](#) .

### **WHEN SHOULD I DO THIS?**

You should identify if an air quality assessment is necessary by engaging in pre-application discussions with Planning and Development Services. The assessment itself may take some time to compile and you may wish to consult with us with regards to its scope extent and methodology. Occasionally, we may require a period of air quality monitoring to support the assessment, which may take several months. The full assessment should be submitted with your planning application.

### **CONTACT FOR FURTHER INFORMATION AND PRE-APPLICATION ENQUIRIES**

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This advice note will be updated periodically considering further legislation and technical developments.