

Amendment to Air Quality Management Area

Cabinet	15th June 2023
Report Author	Morgan Sproates (Regulatory Services Manager)
Portfolio Holder	Cllr Heather Keen, Portfolio Holder for Neighbourhoods
Status	For Decision
Classification:	Unrestricted
Key Decision	Yes
Reasons for Key	Significant effect on communities
Ward:	Newington, Nethercourt, Central Harbour and Eastcliff

Executive Summary:

The Environment Act requires the Council to review and assess air quality. Where air pollution exceeds or is at risk of exceeding health objectives, an Air Quality Management Area (AQMA) must be declared and an Air Quality Action Plan developed within 18 months to reduce pollution.

The report seeks Cabinet approval to revoke the urban AQMA, which is no longer appropriate as measured levels of nitrogen dioxide (NO₂) are well below nationally set health based Air Quality Objective (AQO) levels, and declare a smaller area from St Lawrence to Shah Place, Ramsgate where pollution levels are at risk of exceeding health based objectives for NO₂ due to the area being heavily trafficked.

Recommendation(s):

Members are requested to approve the revocation of the Urban AQMA Order (Annex 3) and approve the declaration of a smaller defined St Lawrence AQMA (Annex 4) and authorise the application of the Common Seal to the Order.

Corporate Implications

Financial and Value for Money

There are no financial implications arising directly from this report. The Council already has to annually report on air quality across Thanet and there is a current requirement to update the Air Quality Action Plan, revoking one large AQMA and replacing with a smaller defined AQMA will not have additional financial implications and provide a better focus on the exceedance area.

Over the next 18 months a draft Air Quality Action Plan will be produced with key stakeholders which will include projects that may require extensive further research and funding. In these cases where there are significant cost implications the projects will be accompanied by fully detailed costing and subject to separate reporting to Cabinet for approval. Some actions may only be possible if external funding can be secured.

Legal

Every Local Authority that has an Air Quality Management Area (AQMA) is required under Part IV of the Environment Act 1995 to provide an Air Quality Action Plan (AQAP) to address the identified areas of poor air quality in the District.

Air quality standards and objectives are set out in the Air Quality (England) Regulations 2000. The Council has a duty to review the quality of air within their area under Part IV of the Environment Act 1995 as well as the Environment Act 2021 - Schedule 11.

In addition the Department for Environment, Food and Rural Affairs in conjunction with the Department for Energy Security and Net Zero, Department for Transport, Department of Health and Social Care have published the Clean Air Strategy 2019 which the council are required to endorse.

Accepting the recommendations will fulfil the Council's duties under the local air quality management regime. Failure to accept the recommendations may place the Council in breach of the Environment Act 1995. Acting on the recommendations is within the Council's powers as set out in the Environment Act 1995. There are no consequences arising from the recommendation that adversely affect or interfere with individuals' rights and freedoms as set out in the Human Rights Act 1998.

Risk Management

It is a legal requirement to declare an area at risk of exceeding the AQOs so that all efforts are focussed on reducing pollution levels below guideline levels to protect health of those living within the area and to raise awareness to those living within the exceedance area. Equally it is important that where there is no likely exceedance of air quality national objective levels that AQMAs are not left in place.

Poor Air Quality Impacts on People's Health and Wellbeing. The Council could miss out on significant funding to deliver a project. e.g. DEFRA/DfT/OLEV grant funding opportunities.

Corporate

The decision to take a more defined approach will enable the Council and relevant partners to focus resources on the area at risk of exceeding health objectives.

Resultant measures to improve air quality will have co benefits with climate change and support a reduction in greenhouse gases. Equally, the actions to reduce NO₂ will also benefit biodiversity by decreasing the deposition of NO₂ in special habitats.

Improving air quality has a critical role to play in protecting communities and the Council will continue to work with relevant stakeholders to consider how this is best achieved. The new AQMA will enable the Council to develop an Action Plan with stakeholders to tackle a multitude of public health goals—such as improving lung health, increasing physical activity, reducing obesity and addressing health inequalities across the district but with specific focus on an area which is likely to exceed health objectives.

Equality Act 2010 & Public Sector Equality Duty

Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to the aims of the Duty at the time the decision is taken. The aims of the Duty are: (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, (ii) advance equality of opportunity between people who share a protected characteristic and people who do not share it, and (iii) foster good relations between people who share a protected characteristic and people who do not share it.

Protected characteristics: age, sex, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy & maternity. Only aim (i) of the Duty applies to Marriage & civil partnership.

This report relates to the following aim of the equality duty: -

- To advance equality of opportunity between people who share a protected characteristic and people who do not share it
- To foster good relations between people who share a protected characteristic and people who do not share it.

Poor air quality can affect younger and older age groups, and people with disabilities, who are more vulnerable from the effects of poor air quality. The new AQMA will have a positive impact on people's health, including those with protected characteristics. The consultation on the proposed AQMA boundary has not raised any issues with regards to the protected characteristics.

Corporate Priorities

This report relates to the following corporate priorities: -

- *Environment*
- *Communities*

1.0 Introduction and Background

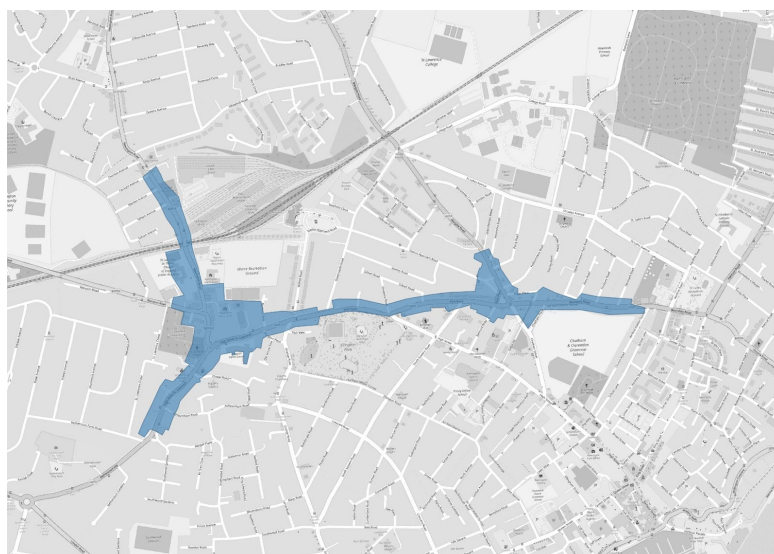
1.1 Part IV of the Environment Act 1995 introduced a requirement on all local authorities to carry out duties in relation to local air quality management. All local authorities are obliged to regularly review and assess air quality in their areas, and to determine whether or not the air quality objectives for key pollutants are likely to be achieved. Where it is likely that air quality levels are such that certain pollutants are above specified levels the Local Authority must declare an Air Quality Management Area (AQMA) and prepare an Air Quality Action Plan (AQAP) setting out the measures it

intends to put in place to improve air quality and reduce pollutant concentrations to a level that is below the objective limit.

- 1.2 The Council monitors air quality at 40 locations across the district using diffusion tubes and results have shown that during the last 5 years the nitrogen dioxide levels have now fallen well below the Air Quality Standard of 40 µg/m³ at all residential receptors. The levels in all but one area have fallen consistently below 36 µg/m³ a level that provides a 10% margin of error and therefore gives surety to compliance.
- 1.3 Each year the Council submits an Annual Status Report on Air Quality within the district to DEFRA. In the Annual Status Report 2021 DEFRA recommended TDC proceed with the revocation of the urban AQMA.

2.0 The Current Situation

- 2.1 The trend observed at all 40 Thanet monitoring sites over the past 5 years indicate that annual mean NO₂ concentrations have been decreasing year-on-year. The reduction in nitrogen dioxide level is likely from improvements in vehicle emissions driven by the UK Government. The Air Quality Strategy 2019 and the Road to Net Zero 2018 all support measures to lower harmful emissions. The Government has also phased-out the sale of new petrol and diesel cars and vans to 2030 and that all new cars and vans must be fully zero emission at the tailpipe from 2035. If these ambitions are realised then road traffic-related NO_x emissions can be expected to reduce significantly over the coming decades.
- 2.2 Although monitoring data has consistently shown no exceedance across Thanet for 5 years, a Detailed Assessment (Appendix 1) was undertaken at 2 key areas previously exceeding objectives at The Square, Birchington and St Lawrence Ramsgate - both heavily trafficked pollution hot spots with residential properties close by.
- 2.3 The Detailed Assessment indicated a risk of exceeding the nitrogen dioxide annual mean from St Lawrence to Shah Place Ramsgate. Environmental Health has increased monitoring in this area to ascertain if the modelled exceedance are reflective of real world emissions.
- 2.4 Proposed AQMA - St Lawrence to Shah Place Ramsgate



Although the Council is under a duty to designate the AQMA, a letter inviting comments was sent to all properties within the area to raise awareness and invite comments with a view to further engagement during the next Action Planning stage.

- 600 properties within the proposed new AQMA and 2 nearby schools
- Kent County Council (In their Public Health & Highways Capacities)
- Dover and Canterbury Council's (Neighbouring Authorities)

Consultation responses are in Annex 2.

3.0 Options

- 3.1 Members are requested to approve the revocation of the Urban AQMA Order (Annex 3) and approve the declaration of a smaller defined St Lawrence AQMA (Annex 4) and authorise the application of the Common Seal to the Order.
- 3.2 Not to approve - this is not an option, the revocation after 5 yrs in areas where there are no exceedances and declaration of a minimum AQMA where there are potential exceedances is a statutory requirement.

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Reporting to: *Penny Button (Head of Neighbourhoods)*

Annex List

Annex 1 - Detailed Assessment
Annex 2 - Consultation Responses
Annex 3 - Revocation Order
Annex 4 - New St Lawrence AQMA Order

Background Papers

DEFRA: Local Air Quality Management Technical Guidance TG22
<https://laqm.defra.gov.uk/wp-content/uploads/2022/08/LAQM-TG22-August-22-v1.0.pdf>

DEFRA: Local Air Quality Management Policy Guidance TG22 PG22
<https://laqm.defra.gov.uk/wp-content/uploads/2022/08/LAQM-Policy-Guidance-2022.pdf>

Corporate Consultation

Finance - Matt Sanham (Head of Finance, Procurement and Risk)
Legal - Sameera Khan (Interim Head of Legal and Monitoring Officer)

Equality - Catherine Curtis (Information Governance and Equalities Manager)