



Appendix 8.1: Air Quality Legislation and Guidance

European Legislation

- 8.1.1 The European Union (EU) Ambient Air Quality Directive 2008/50/EC¹ (i.e. the CAFE Directive) came into force in June 2008. This EU Directive consolidates previous air quality legislation, with the exception of the 4th daughter Directive², and sets air quality limit values for seven pollutants. The Directive also provides a regulatory framework for fine particulate matter smaller than 2.5µm in diameter (PM_{2.5}).
- 8.1.2 EU Directive 2008/50/EC was transposed into legislation in the UK on 11th June 2010 as The Air Quality Standards Regulations 2010³.

National Air Quality Strategy

- 8.1.3 The Environment Act 1995 requires the UK government to prepare a national Air Quality Strategy. The first UK strategy was published in March 1997, setting out policies for the management of ambient air quality. This was subsequently updated in 2007⁴.
- 8.1.4 The 2007 strategy establishes the framework for air quality management in England, Scotland, Wales and Northern Ireland. Air quality standards and objectives are set out for eight pollutants which may potentially occur at levels that give cause for concern. The strategy also provides details of the role that local authorities are required to take in working towards improvements in air quality, known as the Local Air Quality Management (LAQM) regime.

Air Quality Standards and Objectives

- 8.1.5 Air quality standards and objectives are set out in the strategy for the following pollutants: nitrogen dioxide (NO₂), sulphur dioxide (SO₂), carbon monoxide (CO), lead (Pb), fine particulate matter (PM₁₀), benzene (C₆H₆), 1, 3-butadiene (C₄H₆) and ozone (O₃).
- 8.1.6 Objectives for each pollutant, except O₃, were first given statutory status in the Air

¹ Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe

² Directive 2004/107/EC of the European Parliament and the Council of 15th December 2004 relating to arsenic, cadmium, mercury, nickel and polycyclic aromatic hydrocarbons in ambient air

³ The Air Quality Standards Regulations 2010

⁴ Department of Environment, Food and Rural Affairs, The Air Quality Strategy for England, Scotland, Wales and Northern Ireland. July 2007



Quality Regulations 2000⁵ and Air Quality (Amendment) Regulations 2002⁶. These objectives are defined in the strategy as:

“the maximum ambient concentration not to be exceeded, either without exception or with a permitted number of exceedances, within a specified timescale.”

- 8.1.7 The EU limit values, transposed into UK legislation as The Air Quality Standards Regulations 2010, are mostly the same as the air quality objectives in terms of concentrations; however, there are differences in determining how compliance is achieved.
- 8.1.8 Whilst there is no specific objective for PM_{2.5} in England and Wales, a limit value of 25µg/m³ is referred to in the regulations, which has been adopted for use in this assessment (as recommended by the LAQM Helpdesk). An objective has been set for PM_{2.5} in Scotland since early 2016.
- 8.1.9 Examples of where these objectives and limit values apply are detailed in the Defra LAQM Technical Guidance document LAQM.TG(16)⁷ and are included in Table 8.1.

Table 8.1: Examples of Where the Air Quality Objectives Should Apply		
Averaging Period	Objectives Should Apply at:	Objectives Should Generally Not Apply at:
Annual mean	All locations where members of the public might be regularly exposed. Building façades of residential properties, schools, hospitals, care homes, etc.	Building facades of offices or other places of work where members of the public do not have regular access. Hotels, unless people live there as their permanent residence. Gardens of residential properties. Kerbside sites (as opposed to locations at the building façade), or any other location where public exposure is expected to be short term
24-hour mean and 8-hour mean	All locations where the annual mean objectives would apply, together with hotels. Gardens of residential properties ^a	Kerbside sites (as opposed to locations at the building façade), or any other location where public exposure is expected to be short

⁵ The Air Quality Regulations 2000. SI No 928

⁶ The Air Quality (Amendment) Regulations 2002

⁷ Department for Environment, Food and Rural Affairs, Local Air Quality Management Technical Guidance LAQM.TG(16), February 2018



Table 8.1: Examples of Where the Air Quality Objectives Should Apply		
Averaging Period	Objectives Should Apply at:	Objectives Should Generally Not Apply at:
		term
1-hour mean	All locations where the annual mean and 24 and 8-hour objectives apply. Kerbside sites (e.g. pavements of busy shopping streets). Those parts of car parks and railway stations etc. which are not fully enclosed, where members of the public might reasonably be expected to spend one hour or more. Any outdoor locations to which the public might reasonably be expected to spend one hour or longer	Kerbside sites where public would not be expected to have regular access
15-minute mean	All locations where members of the public might reasonably be exposed for a period of 15 minutes or longer	
<i>^a Such locations should represent parts of the garden where relevant public exposure is likely, for example where there is seating or play areas. It is unlikely that relevant public exposure to pollutants would occur at the extremities of the garden boundary, or in front gardens, although local judgement should always be applied</i>		

Local Air Quality Management

8.1.10 LAQM legislation in the Environment Act 1995 requires local authorities to conduct the periodic review and assessments of air quality. These aim to identify all those areas where the objectives are being, or are likely to be, exceeded. Where exceedances are likely to occur, local authorities are required to declare an Air Quality Management Area (AQMA).

8.1.11 LAQM.TG(16) presents a streamlined approach for LAQM in England and Scotland; however, Northern Ireland is still considering changes to LAQM and therefore works according to the previous regime.

8.1.12 The Welsh Government amended the LAQM regime in Wales in 2017 by issuing new statutory policy guidance in order to bring the system into line with the Well-being of Future Generations (Wales) Act 2015⁸. This aims to achieve compliance with the national air quality objectives in specific hotspots and to reduce exposure to pollution more widely, so as to achieve the greatest public health benefit.

8.1.13 Local authorities in England are required to produce Annual Status Reports (ASRs), and

⁸ Well-being of Future Generations (Wales) Act 2015 (anaw 2)



in Scotland and Wales, Annual Progress Reports (APRs). These replace all other reports which previously had to be submitted including Updating and Screening Assessments, Progress Reports and Detailed Assessments (which would be produced to assist with an AQMA declaration).

8.1.14 Local authorities now have the option of a fast track AQMA declaration option. This allows more expert judgement to be used and removes the need for a Detailed Assessment where a local authority is confident of the outcome. Detailed Assessments should however still be used if there is any doubt.

8.1.15 As part of the UK Government's requirement to improve air quality, selected local authorities in England are also currently investigating the feasibility of setting up Clean Air Zones (CAZs). These are areas where targeted action and co-ordinated resources aim to improve air quality within an urban setting, in order to achieve compliance with the EU limit values within the shortest possible time.

8.1.16 Five local authorities outside of London were initially selected to implement a CAZ by 2020 (Birmingham, Leeds, Nottingham, Derby and Southampton). A further 23 local authorities were subsequently chosen to investigate the feasibility of establishing a CAZ, and 33 local authorities may potentially have to proceed to this stage where compliance is not achieved.

National Planning Policy Framework

8.1.17 The National Planning Policy Framework (NPPF)⁹, introduced in March 2012 and most recently updated in February 2019, requires that:

“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 AQMAs and CAZs, 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 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 AQMAs and CAZs is consistent with the local air quality action plan.”

⁹ Ministry of Housing, Communities and Local Government, National Planning Policy Framework, February 2019



Planning Practice Guidance

- 8.1.18 The Planning Practice Guidance (PPG)¹⁰, updated in November 2019 states that whether or not air quality is relevant to a planning decision will depend on the proposed development and its location. Concerns could arise if the development is likely to generate air quality impacts in an area where air quality is known to be poor. They could also arise where the development is likely to adversely impact upon the implementation of air quality strategies and action plans and/or, in particular, lead to a breach of EU legislation (including that applicable to wildlife).
- 8.1.19 Where a proposed development is anticipated to give rise to concerns about air quality, an appropriate assessment needs to be carried out. Where the assessment concludes that the proposed development (including mitigation) will not lead to an unacceptable risk from air pollution, prevent sustained compliance with national objectives or fail to comply with the requirements of the Habitats Regulations, then the local authority should proceed to decision with appropriate planning conditions and/or obligations.

¹⁰ Department for Communities and Local Government. Planning Practice Guidance: Air Quality, November 2019