

Cabinet – 16 September 2009

Chuckery Air Quality Action Plan Consultation and Implementation

Portfolio: Councillor M Flower - Environment

Service: Engineering & Transportation

Wards: Paddock

Key decision: Yes

Forward plan: Yes

1. Summary of report

Following Cabinet approval in November 2007 for the declaration of an Air Quality Management Area (AQMA) in Chuckery to deal with airborne particles (referred to as PM₁₀), the Council is under an obligation to produce an Air Quality Action Plan (AQAP) that must be subject to a statutory consultation process. The purpose of this AQAP is to demonstrate how the Council is working towards meeting air quality objective(s) set out in the Government's Air Quality Strategy for England, Scotland, Wales and Northern Ireland to which the AQMA relates.

This report consequently seeks cabinet approval for a draft Action Plan to be the subject of consultation, and thereafter its implementation once approval has been given on behalf of the Secretary of State.

The need for an AQAP arose following exceedance of a national Air Quality Objective relating to PM₁₀ during 2006. Since this time, no further exceedances have been recorded, though the Council is still required to produce an AQAP and to undertake further air quality assessment work until such time as the AQMA is revoked.

2. Recommendations

- 2.1 That the Draft Chuckery Air Quality Action Plan is approved for statutory consultation purposes.
- 2.2 That responsibility is delegated to the Executive Director, Neighbourhoods, in consultation with the Portfolio Holder for the Environment, for the Draft Chuckery Air Quality Action Plan to be finalised, issued for statutory consultation and thereafter implemented.
- 2.3 That, in the event major issues are raised following statutory consultation, a revised Draft Chuckery Air Quality Action Plan is reported to Cabinet.

3. Background information

- 3.1 The purpose of local air quality review and assessment is to examine the impact on health of seven air pollutants as set out in The Air Quality Strategy for England, Scotland, Wales and Northern Ireland, 2007 (AQS). For each pollutant in the AQS, Air Quality Objectives (AQOs) are set, which are in turn the subject of EC Directives to be implemented by member states.
- 3.2 AQOs are policy targets, often expressed as maximum ambient concentrations of pollutants not to be exceeded, either without exception, or with a permitted number of exceedances within a specified timescale.
- 3.3 The Environment Act 1995 (As Amended) requires the national air quality strategy to include statements on standards relating to the quality of air, and objectives for the restriction of the levels at which particular substances are present. Standards have been used as benchmarks or reference points for the setting of objectives, and for the purpose of the strategy standards are the concentrations of pollutants in the atmosphere which can broadly be taken to achieve a certain level of environmental quality. The standards are based on assessment of the effects of a pollutant on human health, including the effects on sensitive subgroups such as the young, elderly and infirm.
- 3.4 Air quality monitoring within this framework commenced in Chuckery as of 2004, and has focussed to this end on lead and particles (PM₁₀). A general and simplified explanation of PM₁₀ is that it relates to particles that are up to 10 microns (or 10 millionths of a metre) in size or width. These particles are of relevance to health as they can be inhaled.
- 3.5 The AQO applicable to PM₁₀ as currently set out in regulations is in two parts:
- ▶ An annual (yearly) mean average concentration of 40 µg m⁻³; ¹ and
 - ▶ A 24 hour mean (daily) average concentration of 50 µg m⁻³, which can be exceeded up to 35 times per year
- 3.6 Detailed Assessment reports on air quality have been submitted to the Department for Environment, Food and Rural Affairs on both lead and PM₁₀.
- 3.7 Over the course of 2006, a breach of the 24-hour mean (daily) PM₁₀ AQO was recorded, there being 70 exceedances of the 50 µg m⁻³ limit. During 2007 and 2008, no further exceedances of the AQO were recorded.
- 3.8 DEFRA accepted the conclusions in the Council's Detailed Assessment of Air Quality Report Number on Particles (PM₁₀) in Chuckery (March 2007), including the requirement for an AQMA to redress levels of PM₁₀.
- 3.9 Following the subsequent declaration of The Walsall Air Quality Management Area (AQMA) in 2008, the Council has had a statutory duty to produce an Air Quality Action Plan (AQAP). The purpose of the AQAP is to demonstrate how the Council is working towards meeting any given national air quality objective(s).

¹ [The term µg m⁻³ relates to millionths of a gram in weight within a cubic metre volume of air.]

3.10 An AQAP should basically incorporate:

- ▶ Quantification of the source contributions to exceedances of AQOs – this allows the AQAP to be effectively targeted.
- ▶ Evidence that all available options have been considered on the grounds of cost effectiveness and feasibility.
- ▶ How the Council will use its powers and also work in conjunction with other organisations in pursuit of AQOs.
- ▶ Clear timescales in which the Council and other organisations/agencies propose to implement the measures within its Plan.
- ▶ How the Council intends to monitor and evaluate the effectiveness of the plan.

3.11 This standardised approach presents certain problems, not least due to the fact that the relevant AQO has not been breached in 2007 and 2008. There is hence a questionable need for an Action Plan to be produced, and for further assessment work to inform this process. Reductions in PM₁₀ exceedances may be directly related to changes in operations and improvement works carried out at the Chamberlin and Hill Castings Ltd. ferrous foundry located off Chuckery Road, Chuckery.

3.12 Notwithstanding, DEFRA has confirmed that the Council should still produce an Air Quality Action and a Further Assessment. No rationale has been provided for this other than that it needs to report the messages that have been taken to reduce emissions from the foundry and to confirm any future measures, including monitoring, that are still being implemented. Consequently, the further assessment will be based on on-going air quality monitoring since 2006.

3.13 The Council is of the opinion that the activities of Chamberlin and Hill have been a key contributor to levels of PM₁₀, therefore the Draft Air Quality Action Plan at **Appendix A** is in part intended to ensure appropriate control measures are in place to reduce industrial emissions of PM₁₀. Since the current air quality monitoring programme commenced, Chamberlin & Hill, in conjunction with Pollution Control's regulatory officers, have identified a number of sources within the foundry where improvements could be made to reduce air pollution. A scheme of ongoing works commenced during 2007 involving improved dust control in respect of a number of processes and activities using hard engineering measures, that have included the sand plants and casting lines. Further measures are currently under consideration and will be assessed in the context of the Councils on-going air quality assessments.

3.14 The foundry is regulated by the Council in pursuance of the Environmental Permitting (England and Wales) Regulations 2007 (As Amended) for the requirements of Integrated Pollution Prevention and Control. As a consequence, emissions to air are already subject to control via a series of conditions set out in an Environmental Permit, which is available at:
<http://planaccess.walsall.gov.uk/PublicRegister/pollutioncontrollist.asp?sfolder=a2%20public%20register/chamberlin%20and%20hill>

4. Resource considerations

- 4.1 **Financial:** Local Air Quality Management (LAQM) is administered from the annual Pollution Control budget in respect of professional and technical work undertaken by officers, and continued operation and maintenance of air quality monitoring stations, which also involves the Pollution Control Laboratory.

Any expenditure designed to mitigate air pollution and/or achieve compliance with AQOs can fall under the Council. In this case however, Chamberlin & Hill Castings Ltd. have already invested significantly in pollution control measures over the past 2 to 3 years, and should additional works or measures be necessary to further mitigate air pollution the costs will be the responsibility of the company.

- 4.2 **Legal:** The Council has a duty under section 84(2) of the Environment Act 1995 (As Amended) to produce an AQAP where it has designated an AQMA pursuant to 83(1) of the Act.

The Secretary of State has reserve powers under the section 85 of the 1995 Act for the purpose of conducting, or requiring to be conducted, reviews and assessment of air quality, and to make directions to local authorities to take steps as may be specified for the purpose of implementing air quality reviews, assessments, AQMAs, and AQAPs.

Continued compliance with AQOs will result in revocation of the current AQMA when the Council is satisfied there is no likelihoods of further breaches taking place.

- 4.3 **Staffing:** Air Quality Review and Assessment for the purpose of the Government's Air Quality Strategy is carried out by officers of Pollution Control's Scientific Team, which is part of Engineering and Transportation Services.

The implementation of an Air Quality Action Plan may have implications for other service areas, notably Transportation, Highways, Development Control Regeneration and Strategic Planning, where required actions need a resource element. These will be explored in full at the appropriate time.

5. Citizen impact:

- 5.1 Air quality has a direct influence on the health of the general public, as well as the environment.

- 5.2 The statutory Air Quality Review and Assessment regime set out in the Environment Act 1995 (As Amended) is designed to improve and safeguard the health of citizens. By declaration of AQMAs, improvements must be made in areas of relatively poor air quality by the subsequent implementation of local AQAPs. Such plans are highly dependant on the source of pollution and the mechanisms needed to ensure appropriate controls.

6. Community safety

- 6.1 The progression of local air quality action planning is in part intended to bring together Council services as needed when addressing air quality in conjunction with broader issues, which may include transport initiatives and local planning processes.
- 6.2 These initiatives can impact on other areas of corporate priorities in terms of improving health due to cleaner air, as well as promoting a safer Walsall.

7. Environmental impact

- 7.1 Implementation of an AQAP will have a positive long term environmental impact by working towards meeting AQOs which are designed to safeguard health.
- 7.2 Key locations of poor air quality are identified and targeted as a continual process, and air quality throughout the borough will continue to be tracked using the Council's existing air quality monitoring network.

8. Performance and risk management issues

- 8.1 **Risk:** Following submission of the Council's March 2007 Detailed Assessment of Air Quality Report Number on Particles (PM₁₀) in Chuckery, DEFRA duly confirmed the conclusions reached by the Council in that it was necessary to declare an AQMA. In summary, this established an exceedance of the 24 hour mean (daily) PM₁₀ AQO at relevant receptors during 2006, and there was sufficient reason at that time to expect further exceedances would occur.

Continued PM₁₀ air quality monitoring has since not established a breach of an AQO, which coincides with improvement works carried out at Chamberlin and Hill Ltd. Consequently, the Council advised DEFRA of this and sought clarification in March and April 2009 as to whether it was necessary to prepare an Air Quality Action Plan and a Further Assessment of Air Quality. DEFRA confirmed in May 2009 that it required the Council to submit an Action Plan and a Further Assessment report.

All local authorities must demonstrate that they have discharged their duties under Part 4 of the Environment Act 1995 (As Amended), and to do so they will have conducted a review and assessment of air quality having regard to published procedures and formal guidance. If necessary they must also have designated AQMAs and drawn up related action plans.

Failure to address poor air quality ultimately renders the United Kingdom in breach of EU law, and the Council itself subject to central government sanction. Whilst there is no legal obligation on local authorities to achieve national AQOs (as many sources of emissions to air may well be outside of their control), they nonetheless have to show they are working towards compliance. This is clearly identified under section 84 of the Environment Act 1995 (As Amended).

If the Secretary of State is satisfied this has all been undertaken and AQOs are still not met, further action may have to be taken at a national level and in some instances possibly with the involvement of other agencies.

Should the Secretary of State deem that the Council has not satisfied these conditions, a direction can be issued forcing the Council to undertake given work or tasks. It is considered the Draft AQAP (**Appendix A**) is sufficient to demonstrate the Council has carried out its duties appropriately in working to secure AQOs.

- 8.2 **Performance management:** Local Air Quality Management is a mandatory function local authorities are obliged to carry out, and forms inherent elements within Service, Team and Individual Performance Management Plans.

The Secretary of State's reserve powers under section 85 of the 1995 Act have been amended by the section 6 Order in that the Secretary of State may no longer direct an excellent authority to exercise its powers in pursuit of AQOs.

Delivery of the AQAP is primarily via the Environmental Permit that regulates and control industrial emissions arising from Chamberlin & Hill Castings Ltd. This will kept under review until such time that the AQMA is revoked.

9. Equality implications

- 9.1 Development of an AQAP must be an inclusive process in dealing with air quality, not only for the purposes of achieving an objective, but also to link in with policies borough-wide which have a direct effect on sustaining safer, cleaner, and stronger communities and providing support for vulnerable sectors.

10. Consultation

- 10.1 The next phase of this process is to consult the following before finalising and implementing the Action Plan. The Environment Act 1995 provides the statutory basis for consultation and liaison in respect of air quality management. Schedule 11 of the Act requires the Council to consult:

- The Secretary of State (DEFRA)
- The Environment Agency
- The Highways Authority
- All neighbouring local authorities
- Highways Agency
- Bodies representing local business interests and other organisations as appropriate
- Other public authorities as appropriate

- 10.2 The intention of the consultation is to provide comments for finalisation of the Action Plan, having regard to the fact that plans tend to operate over long timescales and in the first draft it may only be possible to specify broad proposals. It is therefore probable that as and when revisions and amendments to the Air Quality Action Plan are required, further consultation will take place.
- 10.3 Whilst the public does not constitute a statutory consultee, a consultation document will be made available, principally via the Council's web site, to provide an opportunity for members of the public to offer their comments.
- 10.4 The council already ensures information on air quality is available to the public through publication of yearly and half-yearly web site reports. The council has also carried out a successful public engagement and consultation exercise in the Chuckery area, dealing with the public's environmental concerns. As part of this a residents' newsletter has been produced and this platform can be used to provide further updates in due course.
- 10.5 DEFRA acknowledges that effective consultation and interaction with the general public and local stakeholders is extremely important in preparing action plans, and their support is needed for Actions Plans to be effective. Guidance and advice prepared to assist in this process which will be taken into account as relevant during the consultation process.

Background papers

1. The Air Quality Strategy for England, Scotland, Wales and Northern Ireland. DEFRA July 2007
2. Statutory Instrument SI 2007 No. 64 Environmental Protection. The Air Quality Standards Regulations 2007
3. The Walsall Air quality Management Area 2006. Order Designating An Air Quality Management Area.
4. Walsall MBC Cabinet Report. Agenda Item 11 – Cabinet 21 November 2007. 'Declaration of an Air Quality Management Areas in Chuckery'.
5. Part IV of the Environment Act 1995. Local Air Quality Management. Policy Guidance LAQM.PG(09). DEFRA February 2009.
6. 3.Part IV of the Environment Act 1995. Local Air Quality Management. Policy Guidance LAQM.PGA(05). Addendum. DEFRA
7. Detailed Assessment of Air Quality Report Number 7 Fine Particles (PM10) – Chuckery, Walsall. March 2007.
8. Chuckery Air Quality Reports at:

http://www.walsall.gov.uk/index/environment/pollution/air_quality/air_quality_in_chuckery.htm

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