



The countryside charity
Sussex

MID SUSSEX DISTRICT COUNCIL DRAFT SITES ALLOCATION DPD PUBLIC EXAMINATION

Post Hearing Action points

Response from CPRE Sussex to the matter 4.3 request from the Planning Inspector that CPRE Sussex outline its proposals for a sound air quality policy

21 June 2021



1. CPRE Sussex has been set the challenge by the Inspector of suggesting the framework for a sound and effective air quality policy that it considers appropriate for the District and NPPF compliant. We have taken up that challenge on the following pages.
2. We have done so in some trepidation, as we do not seek to usurp the role of the Council as determiners of its own policy. But we hope that our suggestion for a proactive, stretching, but (we think) practical air quality policy would be deliverable within the framework and as part of this SADPD, and could usefully form the basis for discussion with stakeholders and public consultation within the timeframe required for consideration if, and consultation on, any other required major modifications to the SADPD.
3. Our 15 point proposal for a sound air quality policy is based on the following basic principles (not all apparent in SA38) that, to be justified,
 - the policy should start with an explanation of its strategic objectives;
 - the policy must reflect a requirement for progressive improvement in air quality throughout the District, and applying objective standards;
 - the policy should be fully transparent, so that it is clear on its face what is being monitored, how, where, when, and for what purposes;
 - monitoring outcomes must be measurable and, where necessary, capable of being acted on;
 - the policy must specify how the Council will respond to deteriorating air quality conditions;
 - the policy must at a minimum, cover the requirements of the NPPF, particularly paras 170, 180 and 181, as to which see para 7 below;
 - monitoring of traffic pollution, including fine particulates, around urban schools and in in what we have called traffic hotspots, and biodiversity impacts of air pollution, across the District itself must be part of the policy. Traffic pollution is, in large part, the product of existing and new development.
4. As these principles depart significantly from those adopted in SA38, our proposal has had to be based largely on a “start from scratch” approach rather than suggested amendment to the wording of SA38. We have concluded that it would be more helpful in explaining our framework proposals to spell out our ideas in the form of textual suggestions.
5. It is of course for the Council to decide, after consultation, what air pollutants it should monitor and the appropriate thresholds by which this is most appropriately done; and we do not pretend to the requisite expertise to offer detailed suggestions for that purpose.
6. It is also for the Council to determine how far, if at all, it wants to adopt a policy that goes beyond the basic minimum required to meet the legal compliance test of soundness, and it is not our purpose to usurp the Council’s role in this regard. As a self-proclaimed high performing authority we expect that it would wish to set high policy standards. That expectation is reflected in our framework proposals. Moreover, we would anticipate that a comparative analysis of “basic minimum” v “enhanced standards” would demonstrate clearly that the enhanced social and environmental benefits of the



The countryside charity
Sussex

latter would justify it as the more reasonable alternative, and hence the sound policy, in the face of the degree of hazard that poor air quality represents to human health and biodiversity, and the need for the Council to adopt a precautionary approach to that hazard. And we would challenge the Council to explain why the purpose (as opposed to the wording) of any of our 15 detailed policy proposals is inappropriate if and to the extent that the Council opts not to adopt them.

7. In terms of NPPF conformity, the NPPF requires an effective, proactive air quality measuring, monitoring and improvement policy in local strategic plans. The key NPPF provisions governing air quality are paras 170, 180 and 181. These three NPPF paragraphs require, in a development planning context, that good air quality must be realised in respect of
 - (i) any site development impacts themselves; and
 - (ii) the potential sensitivity of the wider area to impacts that could arise from the development; and
 - (iii) cumulative air quality impacts of development; and
 - (iv) any likely effects of air pollution on health, living conditions and the natural environment; and
 - (v) seeking out strategic and other opportunities to improve air quality.

We have aimed to reflect all these requirements within our framework draft.

8. We have included within the policy objective (Para 1) a statement that the Council promises to adopt a precautionary approach where harm to human health or biodiversity is identified. This builds on the Court of Appeal decision in *Gladman Developments v SSCLG, Swale BC and CPRE Kent [2019] EWCA Civ 1543*.
9. Apart from air quality standards regulations and the NPPF/NPPG, there is other authoritative guidance which local authorities should be taking into account, such as the 2017 National Institute for Health and Clinical Excellence (NICE) guidance on local plan provisions needed for improving air quality that has not been referenced by the Council: see <https://www.nice.org.uk/guidance/ng70/chapter/Recommendations#planning>.
10. We respectfully invite you to recommend that this suggested framework below should form the basis for the development of a revised policy SA38 that should be included within the to-be-adopted SADPD if you rule that an updated air quality policy is appropriate for inclusion in such a daughter document; or otherwise as part of the 5 year District Plan review.

CPRE Sussex, the Sussex countryside charity

www.cpresussex.org.uk



Framework suggestion for Mid Sussex District Plan Air Quality Policy

SA38 Air Quality

1. Our strategic air quality policy is to deliver throughout the Plan area levels of air quality that at all times meet, and after [*insert date*] will exceed by at least []%, those set out in the Government's Air Quality Standards Regulations from time to time (AQSR) for the progressive improvement .of human health and living conditions and of our natural environment. We will adopt a precautionary approach in situations where there is a risk of harm to human health or to the natural environment.
2. We will exercise our powers (including those given by other Plan policies) to control development, land use and vehicle emissions consistently with achieving that target, and by applying the principles that developers of land will be required to apply practices, products and measures that
 - minimise the emission of pollutants,
 - are sensitive to the site and the wider area that could be impacted by the development, and
 - promote provision and enhancement of green infrastructure and help to improve local environmental conditions.
3. To ensure good air quality and to address the impact of air pollution on both on human health and wellbeing, and on biodiversity the pollutants that we will monitor will be [*MSDC to specify*]. [We will add monitoring of PM0.1 particles if the Government or World Health Organisation (WHO) so require or recommend.]
4. The minimum acceptable levels of air quality for each pollutant will be assessed by reference to those required in the AQSR or, where tighter, in the WHO's guidance¹.
5. We will take account of the air quality impact of a proposal cumulatively with that of any other local committed development.
6. We will monitor for pollutants throughout the District wherever development, land use or the level of road traffic movements are liable to generate a hazard to health, amenity or biodiversity. In particular we will regularly monitor the potential hazards of air pollution
 - generated by every major development² construction, both on-site and off-site;

¹ For information, at present WHO maximum acceptable thresholds for PM 10 and PM 2.5 are lower than UK standards. See: <https://www.theguardian.com/environment/2021/jun/17/uk-refuses-to-commit-to-reduction-of-legal-air-pollution-levels>.

² Major development, as defined in the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as updated or replaced from time to time).



- at every location that has been designated as Air Quality Management Area (AQMA), or is liable to be so designated, with a view to assessing the effectiveness of air pollution avoidance and mitigation measures required there;
 - that is likely to have a significant effect on Ashdown Forest's Special Protection Area (SPA) and Special Area of Conservation (SAC) as a result of vehicle use or other land use;
 - at road traffic hotspots (see para 10) during peak travel hours there.
7. Applications for major development, development applications within an AQMA, and other applications that are liable to have a material adverse impact on air quality locally or on Ashdown Forest when considered individually or cumulatively with other committed development, must be accompanied by an independent expert air quality assessment that
- demonstrates to the Council's reasonable satisfaction how their design and construction methods will use best modern industry practice techniques, materials, processes and working practices to optimise air quality on-site and off-site for both the short and long term, and that they will contribute positively to this policy's air quality objectives;
 - provides best estimates of impacts of nitrogen oxides, and of PM10 and PM2.5 particulate emissions, and any other pollutants required by the Council, during construction and (in the case of non-residential development) during operation, and what steps will be taken to minimise them;
 - provides for effective monitoring of those emissions throughout the construction and (where relevant) operation phase, and for reporting promptly to the Council of any adverse deviation from any application estimate;
 - explains what best industry standard practices will be applied to minimise dust emissions (of whatever content) caused by the development works on neighbouring land.
8. [Development applications to which the Council's Air Quality Action Plan from time to time in force applies must additionally conform to that Action Plan.]
9. In order to prevent adverse effects on the Ashdown Forest SPA and SAC, new development likely to result in increased traffic must demonstrate how any air quality impacts, including in combination impacts, have been considered in relation to the Ashdown Forest SAC. Any development likely to have a significant effect, either alone or in combination with other development, will be required to demonstrate that adequate measures are put in place to avoid or (to the extent that is not possible) mitigate for any potential adverse effects.
10. We will require that effect be given to the requirements in paragraphs 7, 8 and 9 as appropriate via planning conditions, planning obligations or a negotiated contract according to its view of the scale and nature of the development and its associated air quality impact potential.
11. We will before the end of [2024] adopt a supplementary planning document that will set out strategic and other proposals to improve air quality and avoid or (to the extent that is not possible) mitigate adverse impacts caused by vehicle emissions (including particulates), including through emissions reductions, and through traffic and travel management arrangements at traffic hotspots. Traffic hotspots include



The countryside charity
Sussex

- A and B roads and main junctions within category 1, 2 and 3 settlement boundaries,
 - roads outside non-rural schools, colleges and other large educational establishments with over [] students, where monitoring should occur at the beginning and end of the normal educational day,
 - roads leading to major out of town employment or retail centres;
 - the A264 between the M23 and Felbridge, and the A2300 between Burgess Hill and the A23 [others?]
 - any other roads or junctions so designated from time to time by the Council.
12. Where our regular monitoring identifies the actuality of, or potential for, breach of any minimal air quality standard we will take prompt action within our powers with a view to the avoidance or (where that is not possible) the mitigation of the pollution so that our strategic air quality policy objective is maintained. If the pollution has the reasonable potential to cause harm to human health, we will take reasonable steps, proportionate to the risk, to notify persons directly impacted by the risk and to keep them advised.
13. This air quality policy will be taken into account when considering the locational sustainability of development proposals, and the implementation of the objectives in DP21 (Transport) in relation to development.
14. We will regularly publish information to our residents in Mid Sussex News, on our website and through social media and other channels on how we are performing in delivering on our strategic air quality policy and giving general advice to those most affected by adverse air quality in a given area on minimising its effects on their health. These publications will also include advice on things that residents and businesses can do to help improve the District's air quality. Identified material adverse biodiversity impacts will be reported to the Sussex Local Nature Partnership.
15. We will work collaboratively with the Sussex Air Quality Partnership, neighbouring authorities and other relevant bodies to deliver this policy.