

East Herts Council Report

Executive Committee

Date of meeting: 13/02/2024

Report by: Councillor Tim Hoskin, Executive Member for Environmental Sustainability

Report title: Air Quality Action Plan for East Hertfordshire

Ward(s) affected: All

Summary – This report presents to Executive members the final draft version of the Air Quality Action Plan for East Hertfordshire following public consultation and review by members of the Overview and Scrutiny Committee.

RECOMMENDATIONS FOR Executive Committee members:

- a) consider and approve the draft Air Quality Action Plan found in **Appendix A**
- b) approve that the Executive Member for Sustainability may submit the draft Air Quality Action Plan to the Department for Environment, Food and Rural Affairs (DEFRA) for their review and approval
- c) delegate to the Head of Housing and Health, acting in consultation with the Executive Member for Sustainability, authority to make minor changes to the Air Quality Action Plan if needed following submission to DEFRA for approval, with any changes with a financial implication for the council being brought to the Executive for consideration
- d) delegate to the Executive Member for Sustainability authority to adopt the final version of the Air Quality Action Plan on behalf of the council once it has been approved by DEFRA
- e) delegate to the Head of Housing and Health, acting in consultation with the Executive Member for Sustainability, authority to add, amend or delete actions from the Air Quality Action Plan over the lifetime of

the action plan so as to ensure that it remains current, reflecting the financial viability of projects and evolving best practice.

1.0 Background

- 1.1 Part IV of the Environment Act 1995 (as amended 2021) sets out national air quality objectives (AQOs) which should be considered as the maximum levels of air pollution to which people should be exposed. These AQOs are:
 - a) the *annual* average level of nitrogen dioxide (NO₂) in a location should be no higher than 40µg/m³, that is, 40 micrograms of NO₂ per cubic metre of air and
 - b) the hourly average level of nitrogen dioxide (NO₂) in a location should be no higher than 200µg/m³.
- 1.2 Relevant regulations made under the Environment Act 1995 and guidance in the Local Air Quality Management Technical Guidance 2022 require that where at least one these AQOs is consistently breached, the local authority (that is, the district council in an area such as East Hertfordshire with both a district and county council) should declare an Air Quality Management Area (AQMA).
- 1.3 The council's monitoring shows that there are three areas within the district where the level of air pollution is too high. Our analysis, reported in the Air Quality Action Plan, shows that:
 - a) while the 200µg/m³ hourly mean average level of NO₂ **is not breached** in any location
 - b) the 40µg/m³ annual mean average level of NO₂ **is breached** in three areas in Bishop's Stortford, Hertford and Sawbridgeworth.
- 1.4 The council has declared the following Air Quality Management Areas:
 - a) **Bishop's Stortford AQMA** – An area encompassing several properties around the junction of Dunmow Road, Hockerill Street, London Road and Stansted Road in Bishop's Stortford. Declared February 2007.
 - b) **Hertford AQMA** – An area along Gascoyne Way, which passes through central Hertford and encompasses several residential and commercial properties. Declared May 2010.
 - c) **Sawbridgeworth AQMA** – An area along London Road and Cambridge Road that encompasses several residential and commercial properties. Declared February 2014.

1.5 Because the council has declared AQMAs, we are required under the national legislation to produce a detailed action plan to tackle air pollution in each AQMA. This action plan has now been drafted and is attached at **Appendix A**.

2.0 Air Quality Action Plan layout

2.1 When drafting the AQAP the council has tried to balance the statutory requirements for the action plan with the need to make it a usable document for the wider public, some of whom may not have an in-depth technical knowledge of the subject.

2.2 We have also assumed people may choose to dip in and out of the report to look at specific areas that affect them, for example because of where they live or work. For this reason, it has been necessary in some parts of the report to repeat key scene setting.

3.0 Key priorities

3.1 In devising our air quality priorities, we have drawn upon:

- a) the empirical air pollution findings from our AQMAs
- b) the detailed source apportionment modelling undertaken by external specialists
- c) our review of the wider public health, planning and climate change contexts and
- d) the professional views and experience of our multi-agency steering group.

3.2 Our four priorities focus on the key issues we need to tackle to improve air quality across our AQMAs.

- a) Priority 1: Reduce the impact of traffic levels and congestion on air quality
- b) Priority 2: Mitigate the impact of future growth on air quality
- c) Priority 3: Support residents to make active travel choices
- d) Priority 4: Reduce East Herts Council's own impact on air quality

3.3 Further information on the four priority areas can be found in **Appendix A**.

4.0 Tackling the key causes of air pollution

- 4.1 Part of the process of writing this AQAP was to consider where the pollution in the three Air Quality Management Areas (AQMA) comes from. This work was undertaken by Bureau Veritas on behalf of the council.
- 4.2 While there are other sources of pollution affecting the air quality in East Hertfordshire, pollution from vehicles is the main contributing factor with regards to the three AQMAs, with diesel cars being the main source of pollution. Where possible, we have focused our action plan on reducing this source of pollution.
- 4.3 Part IV of the Environment Act 1995 (as Amended 2021) sets out national air quality objectives (AQO) which should be considered as the maximum levels of air pollution to which people should be exposed. These AQOs are:
 - a) the annual average level of nitrogen dioxide (NO₂) in a location should be no higher than 40µg/m³, that is, 40 micrograms of NO₂ per cubic metre of air and
 - b) the hourly average level of nitrogen dioxide (NO₂) in a location should be no higher than 200µg/m³.
- 4.4 When using diffusion tubes to monitor air pollution, national guidance requires at least three continuous years of readings at 10% below the annual average AQO before the council can revoke the AQMA. This means all recording locations in an AQMA would need to show NO₂ levels of no more than 36µg/m³ for three years running.
- 4.5 Analysis of the proposed actions in the action plan indicate that:
 - a) in the Hertford AQMA, the measures to be taken over the lifetime of this action plan are likely to act together to bring air pollution below the 36µg/m³ threshold for revoking the AQMA
 - b) in Sawbridgeworth, if the upper estimates of pollution reduction from all the proposed measures in the draft AQAP were met, then it would appear possible to achieve pollution levels below the 36µg/m³ threshold for revoking the AQMA over the lifetime of this action plan. Lower reductions stemming from the proposed measures would not, however, lead to meeting this threshold. The ongoing switch away from fossil-fuelled vehicles could assist in meeting the threshold. If this impact is insufficient to achieve the lower levels, the council and its partners would need to consider the case for implementing some of the exploratory measures listed in the draft AQAP

- c) the situation in Bishop's Stortford is more complicated; just the measures to be taken as listed in the draft AQAP would not be sufficient to bring air pollution below the $36\mu\text{g}/\text{m}^3$ threshold for revoking the AQMA. In this AQMA, it is suggested that the impact of the switch away from fossil-fuelled vehicles is very closely monitored on a regular basis and that, should this not assist sufficiently in bringing air pollution down below the threshold for revocation of the AQMA, the council, its partners and those living and working in the district will consider the case for implementing some of the exploratory measures listed in the draft AQAP.

4.6 More information on these calculations can be found in **Section 14** of **Appendix A**.

5.0 Future actions

5.1 This action plan is designed to be an active and evolving document throughout the next five years. As information, understanding and technology evolve over time, the council will adapt its approach to ensure it is using its limited resources on the actions which will have the most impact.

6.0 Details of the consultation

6.1 In line with the current Local Air Quality Management Policy Guidance (LAQM PG) document, the council undertook a public consultation exercise on the proposed air quality action plan. The consultation ran for six weeks from the 31 October 2023 to 13 December 2023.

6.2 In determining a proportionate period for the statutory consultation, officers have followed Defra's practice of 4-6 weeks consultation on statutory matters (other than for national policy changes of greater broader significance). Other local authorities typically follow Defra's practice.

6.3 Statutory consultees who were consulted on this action plan include:

- a) the Secretary of State
- b) the Environment Agency
- c) DEFRA / LAQM
- d) National Highways
- e) UK Health Security Agency

- f) Local MPs
- g) Hertfordshire County Council (Public Health / Highways)
- h) Hertfordshire police
- i) neighbouring local authorities.

6.4 Information about the consultation was emailed directly to statutory consultees, key partners, council members and known interested parties (such as local air quality interest groups and local bus operators). In addition, the consultation was publicised on our website, social media channels and a press release was issued.

6.5 For the purposes of this report, respondents have been classified as either “public” or “statutory consultee”.

a) Public – responses from the public, includes councillors, business owners and town councils.

b) Statutory consultee – responses from the statutory consultees are from those listed in section 6.3 above.

6.6 Overall, the council received 189 responses to the consultation (182 public responses and seven from statutory consultees). Most respondents to the survey were from the towns where the three air quality management areas are located.

7.0 Responses from the public

7.1 A full breakdown of the council’s response to the consultation can be found in Section 4 of **Appendix B**.

7.2 As a direct result of the responses from the public the council has introduced the following changes to the actions:

a) added additional sub-actions to action 1.5 around new real-time air quality monitoring equipment in the three Air Quality Monitoring Areas

b) reworded action 1.7, to clarify the council’s position on a ULEZ. The aim of the original wording was to indicate the council wishes to investigate the pros and cons of ULEZ in the local context in reflection of its commitment to thorough examination and public engagement on all possible options for reducing air pollution. The revised wording clarifies this

- c) added an additional action (1.8), focusing on minimising congestion, in recognition of the strong views expressed in the consultation with almost half (47%) of all respondents called for continued / renewed / new efforts to reduce congestion such as providing alternative routes to the AQMAs such as bypasses around the Hertford and Sawbridgeworth AQMAs and promoting greater use of the A1184/A120 which is large part forms a bypass around Bishop's Stortford
- d) added an additional sub-action to action 3.7 around publishing reviews to the council's website.

8.0 Responses from statutory consultees

8.1 Of the statutory consultees, seven have responded to the consultation, namely:

- a) DEFRA / LAQM
- b) the Environment Agency
- c) UK Health Security Agency
- d) National Highways
- e) Hertfordshire County Council
- f) Epping Forest District Council
- g) South Cambridgeshire District Council.

8.2 The responses received from the statutory consultees were supportive of our work and some contained helpful editorial comments. All comments have been considered, with amendments made to the AQAP in line with the most substantive comments.

8.3 DEFRA's response to the consultation was very supportive of them approving the final AQAP version when it is submitted in February. Of note from their response were the following:

"While the draft AQAP doesn't specifically use the latest Defra report template, the report is thorough and clearly set out in a custom theme, and contains the relevant overall content, sections and tables covered in the template.

"Overall, the AQAP is very well considered, with extensive detail presented on the formulation of the Plan, the costs/benefits of measures and the overall likely reductions in concentrations as a result of implementation of the Plan.

Additionally, the layout of the document is clear and concise throughout, even if the latest template has not been strictly adhered to. The draft AQAP is therefore accepted, and many elements could be considered examples of best practice."

9.0 Overview and Scrutiny Committee review

- 9.1 The Executive Member for Environmental Sustainability presented the draft AQAP, as amended following consultation, to the Overview and Scrutiny Committee on 16th January 2024 for members of the committee to scrutinise and provide comments for the Executive Member to consider.
- 9.2 The comments from the members of the Overview and Scrutiny Committee, together with the Executive Member for Environmental Sustainability's review and any subsequent changes to the draft AQAP can be found in **Appendix C**.

10.0 Equalities Impact Analysis

- 10.1 An equality impact analysis (EqIA) has been written to accompany the AQAP being considered by the Executive Committee and can be found in **Appendix D**.
- 10.2 Many of the actions focus on implementing behavioural change within the population and are at the exploratory stage. It is envisioned that when these exploratory actions are looked at in more detail and before they are implemented, if appropriate, a further action-specific EqIA will be undertaken to ensure there are no unintended consequences leading to discrimination. At this stage we have identified in **Appendix D** which actions have potential to impact on someone with a particular protected characteristic and therefore would require an EqIA.
- 10.3 The actions contained within the AQAP have the potential to disproportionately affect some individuals who identify as being part of one of the protected characteristics. Race, disability and age are the main protected characteristics which, at this stage, have the potential to lead to residents being differentially affected. For these, an action specific EqIA will need to be undertaken to ensure individuals who identify as being in one of these protected characteristics are adequately considered at the project design stage.

11.0 Next Steps

- 11.1 If approved by the Executive Committee, the draft AQAP will be submitted to DEFRA for their approval.
- 11.2 Once approved by DEFRA, the council can adopt the final version of the AQAP.

12.0 Conclusion

- 12.1 To conclude, the draft Air Quality Action Plan will focus the council's limited resources, and those of others, on the interventions which are likely to have the most significant impact on improving air quality across East Hertfordshire, in the three air quality management areas.
- 12.2 The council will continue to work with key partners to undertake a wide range of activities aimed at improving air quality and will adapt its approach as new evidence-based initiatives arise.

13.0 Reason(s)

- 13.1 In line with the council's constitution, the adoption of the draft Air Quality Action Plan is an Executive Committee decision.

14.0 Options

- 14.1 Within the context of continuing financial pressures on the council, scale back or cease work on air quality – NOT RECOMMENDED as the declaration of AQMAs requires the council to work with partners to reduce pollution levels. Arguably, only continued work to produce a refreshed Air Quality Action Plan and seek external funding for projects will enable the council to play its part, alongside Hertfordshire County Council, national government and local communities and people, to build on the air quality gains seen to date.
- 14.2 Adopt an ad hoc approach to working on air quality without renewing the Air Quality Action Plan – NOT RECOMMENDED as although this approach would likely see some benefits, the opportunities for joined-up working and the bringing together of actions could be lost.
- 14.3 Adopt the proposed Air Quality Action Plan as discussed in this report and continue with joined-up actions – RECOMMENDED.

15.0 Risks

- 15.1 There is a risk to health from inaction on air pollution in the district.

- 15.2 There is a reputational risk to the council if it were considered not to be taking the problem of air pollution seriously.
- 15.3 There is a financial risk as failure to work with all interested parties and communities on the reduction of air pollution could ultimately led to higher cost interventions, such as road closures, road pricing and the like, being required to tackle the problem.
- 15.4 There is a risk of DEFRA imposing financial penalties on the council for failing its statutory duty by not having an up-to-date Air Quality Action Plan.

16.0 Implications/Consultations

16.1 Community Safety

- a) No

16.2 Data Protection

- a) No

16.3 Equalities

- a) Yes – Poor air quality can disproportionately impact people with particularly protected characteristics, notably disabled people with long-term health conditions such as asthma and chronic obstructive pulmonary disease (COPD) and older people who are more likely to have such disabilities. Thus, efforts to improve air quality are likely to have significantly beneficial impact on people with this protected characteristic.

16.4 Environmental Sustainability

- a) Yes – The work identified in this report will improve environmental sustainability.

16.5 Financial

- a) No – There are no direct financial implications arising from consideration and ultimate adoption of the Air Quality Action Plan. Of course, should specific actions then be followed, there would in some cases be quite considerable financial implications; any future proposals with significant revenue and/or capital implications for the council will be put to members for consideration at the time.

16.6 Health and Safety

- a) No

16.7 Human Resources

- a) No

16.8 Human Rights

- a) No

16.9 Legal

- a) The declaration of AQMAs requires the council to work with partners to reduce pollution levels.
- b) Under section 83A of Part IV of the Environment Act 1995, as amended by the Deregulation Act 2015 – Part 4 of Schedule 13, once an AQMA has been designated the district council should prepare an AQAP that sets out how it will achieve the air quality standards or objectives for the area that the AQMA covers. The district council should provide information on the timescales for the achievement of measures that it can take under the powers that it has. Relevant powers and mechanisms include environmental health functions and land use planning. This proposed AQAP fulfils this duty.

16.10 Specific Wards

- a) No – Although focused on the wards with AQMAs, the council's work to raise awareness of the issue of air pollution and take steps to curtail it apply across the district.

17.0 Background papers, appendices and other relevant material

17.1 Background Information:

- a) Overview and Scrutiny Committee minutes from 30/11/2023
<https://democracy.eastherts.gov.uk/ieListDocuments.aspx?CId=515&MId=5341&Ver=4&J=5>
- b) Climate change emergency declaration 2019
<http://democracy.eastherts.gov.uk/ieListDocuments.aspx?CId=158&MId=3508&J=3>
- c) Climate change emergency declaration 2023
<http://democracy.eastherts.gov.uk/ieListDocuments.aspx?CId=158&MId=4215&J=5>

17.2 Appendices

- a) Appendix A – Draft Air Quality Action Plan for East Hertfordshire
- b) Appendix B – Analysis of responses from the public consultation
- c) Appendix C – Summary of comments from the Overview and Scrutiny Committee
- d) Appendix D – Equalities Impact Analysis

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