

Appendix 9A

Legislation, Guidance and Policy

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Table 9A 1.1 Legislation relevant to the assessment of air quality

Legislation	Legislative context
Environmental Protection Act 1990	Section 79 of the Environmental Protection Act 1990¹ gives the following definitions of statutory nuisance relevant to dust and particles: <i>“Any dust, steam, smell or other effluvia arising from industrial, trade or business premises or smoke, fumes or gases emitted from premises so as to be prejudicial to health or a nuisance”;</i> and <i>“Any accumulation or deposit which is prejudicial to health or a nuisance”.</i> Following this, Section 80 says that where a statutory nuisance is shown to exist, the local authority must serve an abatement notice. Failure to comply with an abatement notice is an offence and if necessary, the local authority may abate the nuisance and recover expenses. Statutory nuisance provisions are relevant to, amongst other things, the control of dust from demolition and construction. There are no statutory limit values for dust deposition above which ‘nuisance’ is deemed to exist. Nuisance is a subjective concept, and its perception is highly dependent upon the existing conditions and the change which has occurred. The party responsible for the premises giving rise to the emissions is responsible for ensuring use of Best Practicable Means to avoid statutory nuisance.
Environmental Protection Act 1990	Section 79 of the Environmental Protection Act 1990² gives the following definitions of statutory nuisance relevant to dust and particles: <i>“Any dust, steam, smell or other effluvia arising from industrial, trade or business premises or smoke, fumes or gases emitted from premises so as to be prejudicial to health or a nuisance”;</i> and <i>“Any accumulation or deposit which is prejudicial to health or a nuisance”.</i>

1 The National Archives (1990). Environmental Protection Act 1990 (online). Available at: <https://www.legislation.gov.uk/ukpga/1990/43/data.pdf> (Accessed July 2024).

2 The National Archives (1990). Environmental Protection Act 1990 (online). Available at: <https://www.legislation.gov.uk/ukpga/1990/43/data.pdf> (Accessed July 2024).

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Environmental Act 1995	Part IV of the Environment Act 1995 required the Secretary of State to publish a national Air Quality Strategy and set up a system of Local Air Quality Management (LAQM). Schedule 11 of this Act makes it clear that it remains a requirement for local authorities to periodically review and document local air quality within their area with the aim of meeting the air quality objectives defined in the Air Quality Regulations. Where the objectives are not likely to be achieved, an authority is required to designate an AQMA. For each AQMA the local authority is required to draw up an Air Quality Action Plan (AQAP) to secure improvements in air quality and show how it intends to work towards achieving the air quality objectives in the future.
Air Quality Regulations 2000 (as amended, 2002)	The Air Quality (England) Regulations 2000 (as amended) set objectives for ambient pollutant concentrations. The objectives for human health apply where there is relevant exposure: <i>"...at locations which are situated outside of buildings or other natural or man-made structures, above or below ground, and where members of the public are regularly present..."</i>
Air Quality Standards Regulations 2010 (as amended, 2016)	The Air Quality Standards Regulations 2010 (as amended) outlines the air quality target values, long term objectives and legally binding limit values for concentrations of major air pollutants that impact public health in the UK. These standards are included in Table 9-2 of Chapter 9 of the Environmental Statement. For the protection of vegetation,

Legislation	Legislative context
	critical target values and levels were also provided for ozone and nitrogen dioxide, although these are not legally binding.
Environment (Miscellaneous Amendments) (EU Exit) (Regulations 2020)	The Environment (Miscellaneous Amendments) (EU Exit) Regulations 2020 ³ made amendments to the previous air quality regulations to address minor errors and to ensure they continue to operate effectively after the end of the implementation period.
Environment Act 2021	The Environment Act 2021⁴ passed into law in November 2021. This Act sets a legally binding duty on the Secretary of State to bring forward air quality targets into secondary legislation; with specific regard to the annual mean level of PM_{2.5} in ambient air. Schedule 11 of the Environment Act 2021 also provides amendments to the Environment Act 1995 regarding the duty of the Secretary of State to report on air quality in England as well as the functions and duties of relevant public authorities including, but not limited to, the duty of a local authority to prepare an action plan for an Air Quality Management Area “...for the purpose of securing that air quality standards and objectives are achieved...” Under the Environment Act 2021, the Office for Environmental Protection was formed to perform the role of an objective and impartial environmental watchdog in the UK. Previously this role was held by the European Commission.
Environmental Targets (Fine Particulate Matter) (England) Regulations 2023	In March 2022 and in response to this duty, the UK government proposed a legally binding target to reduce annual mean PM _{2.5} concentrations across England to 10µg/m ³ and achieve a 35% reduction in population exposure (when compared to 2018 levels) by 2040.

³ The National Archives (2020). *The Environment (Miscellaneous Amendments) (EU Exit) Regulations 2020* (online). Available at: <https://www.legislation.gov.uk/ukxi/2020/1313/made/data.pdf> (Accessed July 2024).

Table 9A.1.2 Planning policy relevant to the assessment of air quality

Policy	Policy context
National planning policy	
Overarching National Policy Statement for Energy (EN-1)	The Overarching National Policy Statement (NPS) for Energy (EN-1) sets out national policy for major energy infrastructure projects. Section 5.2 discusses air quality and emissions and notes the variety of potential pollutants and impacts on human health and on ecological sites. Section 5.2.8 states: <i>“Where the project is likely to have adverse effects on air quality the applicant should undertake an assessment of the impacts of the proposed project as part of the Environmental Statement (ES).”</i> Section 5.2.9 outlines what the ES should describe in relation to air quality including: <i>“any significant air emissions, their mitigation and any residual effects distinguishing between the project stages and taking account of any significant emissions from any road traffic generated by the project;</i> <i>the predicted absolute emission levels of the proposed project, after mitigation methods have been applied;</i> <i>existing air quality levels and the relative change in air quality from existing levels; and</i> <i>any potential eutrophication impacts.”</i> Section 4.12.2 states: <i>“Pollution control is concerned with preventing pollution through the use of measures to prohibit or limit the releases of substances to the environment from different sources to the lowest practicable level. It also ensures that ambient air and water quality meet standards that guard against impacts to the environment or human health.”</i> Section 5.7.1 states: <i>“During the construction, operation and decommissioning of energy infrastructure there is potential for the release of a range of emissions such as odour, dust, steam, smoke, artificial light and infestation of insects. All have the potential to have a detrimental impact on amenity or cause a common law nuisance or statutory nuisance under Part III, Environmental Protection Act 1990.”</i> This air quality chapter aligns with this policy as it includes an assessment of the impacts of the proposed Project, including the predicted emission levels, existing air quality levels and potential eutrophication impacts.

Policy	Policy context
National Policy Statement for Gas Supply Infrastructure and Gas and Oil Pipelines (EN-4)	The NPS for Gas Supply Infrastructure and Gas and Oil Pipelines (EN-4) provides additional technology specific guidance to complement NPS EN-1. When referring to gas and oil pipelines, NPS EN-4 states that <i>“Many of the generic impacts set out in EN-1 are relevant to the consideration of applications for gas and oil pipelines.”</i> However, it should be noted that the extent to which they are relevant may depend upon the phase of the Project being considered. When discussing gas emissions specifically, it is in relation to the gas supply rather than the construction of the gas pipelines. NPS EN-1 should therefore act as a basis for considerations of air quality impacts associated with the Project.
Clean Air Strategy 2019	The Department for Environment, Food and Rural Affairs (Defra) published the Government’s Clean Air Strategy in 2019. This sets out measures, which aim to reduce emissions from all sources of air pollution, making air healthier to breathe, protecting nature and boosting the economy. The Strategy also proposed tough new goals to cut public exposure to airborne PM, in line with the recommendations made by the World Health Organisation (WHO). Furthermore, the Strategy confirms that the Government will set new legislation to <i>“create a stronger and a more coherent framework for action to tackle air pollution. This will be underpinned by new England-wide powers to control major sources of air pollution, in line with the risk they pose to public health and the environment, plus new local powers to take action in areas with an air pollution problem. These will support the creation of Clean Air Zones to lower emissions from all sources of air pollution, backed up with clear enforcement mechanism.”</i> New enforcement powers will also be given at a national and local level, across all sectors of society.
National Planning Policy Framework (NPPF) 2023	The Government’s overall planning policies for England are described in the National Planning Policy Framework (NPPF)⁴. The Project aligns with the policies stated below and

⁴ Ministry of Housing, Communities & Local Government (2023). *National Planning Policy Framework* (online). Available at: https://assets.publishing.service.gov.uk/media/669a25e9a3c2a28abb50d2b4/NPPF_December_2023.pdf (Accessed July 2024).

Policy	Policy context
	the core underpinning principle of the Framework which is the presumption in favour of sustainable development, defined as “... <i>meeting the needs of the present without compromising the ability of future generations to meet their own needs</i>”. One of the three overarching objectives of the NPPF is that the planning system should “<i>protect and enhance our natural, built and historic environment; including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.</i>” In relation to air quality, the following paragraphs in the document are relevant: Paragraph 55, which states “<i>Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition</i>”; Paragraph 108 which relates to the need to consider transport related issues at the earliest stages of plan making and development proposals, so that “...<i>c) opportunities to promote walking, cycling and public transport use are identified and pursued; d) the environmental impacts of traffic and transport infrastructure can be identified, assessed and taken into account – including appropriate opportunities for avoiding and mitigating any adverse effects, and for net environmental gains... </i>”; Paragraph 109, which states “...<i>Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health.... </i>”; Paragraph 180 which states “<i>Planning policies and decisions should contribute to and enhance the natural and local environment by: ...e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality,</i>

Policy	Policy context
	<i>taking into account relevant information such as river basin management plans...”;</i> Paragraph 191 which states “<i>Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development....”;</i> Paragraph 192 which states “<i>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 Air Quality Management Areas and Clean Air Zones, 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 the 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 Air Quality Management Areas and Clean Air Zones is consistent with the local air quality action plan.”;</i> and Paragraph 194 which states “<i>The focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities.”</i>
UK Air Quality Strategy 2023	The revised Air Quality Strategy 2023 ⁵ sets out the actions the government expects local authorities to take in support of achieving long term air quality goals, including the new PM _{2.5}

⁵ Department for Environment Food and Rural Affairs (2023) *Air Quality Strategy: framework for local authority delivery* (online). Available at: <https://www.gov.uk/government/publications/the-air-quality-strategy-for-england/air-quality-strategy-framework-for-local-authority-delivery> (Accessed July 2024).

Policy	Policy context
	targets. The strategy seeks to strengthen, simplify and update the legislative framework that applies at a local level, in order to help reduce local concentrations of air pollution. The predicted results from the dispersion modelling included in this assessment were assessed against the new PM2.5 targets.
Environmental Improvement Plan 2023	In January 2023, the UK government published its Environmental Improvement Plan which constitutes the first review of the 25 Year Environment Plan as required under the Environment Act 2021. Of relevance to air quality within the document is the goal to achieve clean air in the UK by cutting air pollution overall through tackling key sources of emissions and specific hotspots and reducing ammonia emissions.
Local Planning Policy	
Cheshire West and Chester Development Plan (Part 1) 2015	Review of the Cheshire West and Chester Development Local Plan (Part One)⁶ highlighted the following policy relevant to this Project and air quality assessment: SOC 5 Health and well-being states: <i>“Development that gives rise to significant adverse impacts on health and quality of life (e.g. soil, noise, water, air or light pollution and land instability, etc) including residential amenity, will not be allowed.”</i>
Cheshire East Local Plan Strategy 2017	Review of the Cheshire East Local Plan Strategy highlighted the following policy relevant to this Project and air quality assessment: SE 12 Pollution, Land Contamination and Land Instability states: • <i>“The council will seek to ensure all development is located and designed so as not to result in a harmful or cumulative impact upon air quality, surface water and groundwater, noise, smell, dust, vibration, soil contamination, light pollution or any other pollution which would unacceptably affect the natural and built environment, or detrimentally affect amenity or cause harm. Developers will be expected to minimise and mitigate the effects of possible pollution arising from</i>

⁶ Cheshire West and Chester (2015). Cheshire West and Chester Local Plan (Part One) Strategic Policies 2015 (Online). Available at: <https://consult.cheshirewestandchester.gov.uk/kse/event/24907/section/3252243> (Accessed June 2024).

Policy	Policy context
	<i>the development itself, or as a result of the development (including additional traffic) during both the construction and the life of the development. Where adequate mitigation cannot be provided, development will not normally be permitted.</i> <i>Development for new housing or other environmentally sensitive development will not normally be permitted where existing air pollution, soil contamination, noise, smell, dust, vibration, light or other pollution levels are unacceptable and there is no reasonable prospect that these can be mitigated against.</i> <i>Development should support improvements to air quality, not contradict the Air Quality Strategy or Air Quality Action Plan and seek to promote sustainable transport policies.”</i>
Trafford Local Plan: Core Strategy 2012	Review of Trafford Local Plan: Core Strategy⁷ document highlights the following policies of relevance to the Project and the air quality assessment: L5.13: <i>“Development that has potential to cause adverse pollution (of air, light, water, ground), noise or vibration will not be permitted unless it can be demonstrated that adequate mitigation measures can be put in place.”</i> L5.14: <i>“Where development is proposed close to existing sources of pollution, noise or vibration, developers will be required to demonstrate that it is sited and designed in such a way as to confine the impact of nuisance from these sources to acceptable levels appropriate to the proposed use concerned.”</i> L5.15: <i>“Within the Borough’s Air Quality Management Zones developers will be required to adopt measures identified in the Greater Manchester Air Quality Action Plan, to ensure that their development would not have an adverse impact on the air quality.”</i>
Warrington Local Plan 2023	Review of the Warrington Local Plan Core Strategy highlighted the following policy of relevance to the Project and the air quality assessment:

⁷ Trafford Council, (2012). Trafford Local Plan Core Strategy (Online). Available at: <https://www.trafford.gov.uk/planning/strategic-planning/docs/core-strategy-adopted-final.pdf> (Accessed June 2024).

Policy	Policy context
	Policy ENV8 Environment and Amenity Protection states: <i>“The Council will seek to ensure that proposals for new development will not have an unacceptable negative impact on air quality and will not further exacerbate air quality in the Council’s designated AQMA; or will contribute to air pollution in areas which may result in further areas being designated”.</i>
St Helens Borough Local Plan 2022	Review of the St Helens Local Plan up to 2037 highlights the following policies of relevance to the Project and air quality assessment: Policy LPC13: Renewable and Low Carbon Energy Development states <i>“Proposals for development that would produce and/ or distribute decentralised low carbon or renewable energy will be permitted provided that they would: a) avoid causing unacceptable harm to the appearance or character of the ... air quality”.</i> Policy LPD01: Ensuring Quality Development states <i>“All proposals for development will be expected, as appropriate having regard to their scale location and nature, to meet or exceed the following requirements: ...2b) Minimise and mitigate to acceptable levels any effects that the development may have on air quality...”</i> Policy LPD09: Air Quality states <i>“Development proposals must demonstrate that they will not: a) impede the achievement of any objective(s) or measure(s) set out in an AQMA AQAP; or b) introduce a significant new source of any air pollutant... c) lead to a significant deterioration in local air quality... d) ... lead to an unacceptable decline in air quality in the area.”</i>
Halton Delivery and Allocations Local Plan 2022	Review of the St Helens Local Plan up to 2037 highlights the following policies of relevance to the Project and air quality assessment: Policy CS23 Managing Pollution and Risk states: <i>“To control development which may give rise to pollution: Development proposals should not exacerbate and where possible, should minimise, all forms of emissions and odour... pollution.</i> <i>Proposals for development within or close to identified AQMAs in the Borough should have specific regard to how the exceedance in air pollutants can be addressed and how the impact on receptors can be reduced.”</i>

Table 9A.1.3 Technical guidance relevant to the assessment of air quality

Technical guidance document	Context
National Planning Practice Guidance (NPPG) 2019	This guidance provides a number of guidance principles on how the planning process can take into account the impact of new development on air quality. The guidance provided was used to determine how much detail the air quality assessment needed to include for the Project, and how impacts on air quality can be mitigated. This guidance provides information on how air quality is taken into account by Local Authorities in both the wider planning context of Local Plans and neighbourhood planning, and in individual cases where air quality is a consideration in a planning decision.
Local Air Quality Management Review and Assessment Technical Guidance 2022 (LAQM.TG(22))	Defra has published technical guidance for use by local authorities in their review and assessment work. This guidance, referred to in this document as LAQM.TG(22) ⁸ , has been used where appropriate in the air quality assessment, including for the determination of receptors and the model verification process.
Land-Use Planning and Development Control: Planning for Air Quality 2017	The Environmental Protection UK (EPUK) and the Institute of Air Quality Management (IAQM) have published guidance that offers comprehensive advice which was used in this air quality assessment to determine: when an air quality assessment may be required; what should be included in an assessment; how to determine the significance of any air quality impacts associated with a development; and the possible mitigation measures that may be implemented to minimise these impacts.
Guidance on Assessment of Dust from Demolition and Construction 2024	This document ⁹ published by the IAQM was produced to provide guidance to developers, consultants and environmental health officers on how to assess the impacts arising from construction activities and was used in this air quality assessment for the Construction Dust Assessment. The emphasis of the methodology is on classifying sites according to the risk of impacts (in terms of dust nuisance, PM ₁₀ impacts on public exposure and impact upon sensitive

⁸ Department for Environment Food and Rural Affairs (2022). *Local Air Quality Management Technical Guidance (TG22)* (online). Available at: <https://iaqm.defra.gov.uk/wp-content/uploads/2022/08/LAQM-TG22-August-22-v1.0.pdf> (Accessed July 2024).

⁹ Institute of Air Quality Management (2024). *Guidance on the Assessment of Dust from Demolition and Construction* (online). Available at: <https://iaqm.co.uk/wp-content/uploads/2013/02/Construction-Dust-Guidance-Jan-2024.pdf> (Accessed July 2024).

Technical guidance
document

Context

receptors) and to identify mitigation measures appropriate to the level of risk identified.

**Guide to the
Assessment of Air
Quality Impacts on
Designated Nature
Conservation Site
2020**

This guidance¹⁰ was referred to in determining the operational phase air quality impacts at ecological receptors. This guidance, referred to in this report as the IAQM Nature Impact Guidance, provides practical advice on how to undertake assessment. It seeks to encourage greater communication and co-operation between air quality and ecology specialists. The advice provided in this document is not prescriptive and professional judgement on the part of an air quality specialist and ecology specialist is required due to *“the diverse range of projects and wide range of factors that influence the approach taken”*. Whilst it makes reference to the Design Manual for Roads and Bridges (DMRB) LA 105¹¹; it goes further in recommending consideration of ammonia emissions: *“5.5.4.2 The DMRB methodology...only requires the assessment of NO_x emissions and nitrogen deposition. It does not consider NH₃ or its contribution to nitrogen deposition. A road transport is a source of ammonia, albeit a small source compared to agriculture at a national level, consideration should be given to including it and its contribution to local nitrogen deposition.”*

¹⁰ Institute of Air Quality Management (2020). *A Guide to the Assessment of Air Quality Impacts on Designated Nature Conservation Sites* (online). Available at: <https://iaqm.co.uk/text/guidance/air-quality-impacts-on-nature-sites-2020.pdf> (Accessed July 2024).

¹¹ Highways England (2019). *Sustainability and Environment Appraisal LA 105 Air Quality* (online). Available at: <https://www.standardsforhighways.co.uk/tses/attachments/10191621-07df-44a3-892e-c1d5c7a28d90?inline=true> (Accessed July 2024).

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