



CD-052

Air Quality and Land Use Planning

Part IV The Environment Act 1995
Local Air Quality Management
LAQM.G4(00)

March 2000

Department of the Environment, Transport and the Regions: London
National Assembly for Wales

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ISBN: 1 85112 372 5

Printed in the UK on material containing 75% post-consumer waste and 25% ECF pulp (cover) and 100% post-consumer waste (text).

March 2000.

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Air quality and land use planning

What this guidance is for

1. The land use planning system is integral to improving air quality. Local Air Quality Management (LAQM) is best delivered by a partnership of relevant disciplines sharing the responsibility. This guidance note, therefore, is for all local authorities and in particular their planning, environmental health, economic development, and transport planning departments. It will also help businesses, the Environment Agency and the public, and anyone else involved in the planning process.
2. This guidance note advises on the links between air quality and the planning process. It will help local authorities develop action plans to deal with specific air quality problems and create strategies to improve air quality generally. It is designed to help planning departments within local authorities to carry out their functions and may be material in preparing development plans and in determining applications. Its main objectives are to ensure that:
 - the land use planning system contributes to national air quality objectives; and
 - planners take proper account of air quality issues in the planning process.
3. To achieve these objectives, this note:
 - alerts planners to the general principles of LAQM and to local reviews and assessments of air quality;
 - reminds planners that they must take account of the objectives in the Air Quality Strategy for England, Scotland, Wales and Northern Ireland when carrying out their full range of functions, including regulating the development and use of land in the public interest;
 - shows the links between the planning system and policies to improve air quality; and
 - advises on what processes local authorities and others should adopt.

Statutory background

4. This guidance is issued by the Department of the Environment, Transport and the Regions (DETR), and the National Assembly for Wales under section 88(1) of the Environment Act 1995 (“the Act”). It replaces the guidance issued as LAQM.G4(97). Under section 88(2) of the Act, local authorities are required to take account of this guidance when carrying out any of their duties under or by virtue of Part IV of the Act.

5. LAQM.G1(00) gives a general introduction to the system of LAQM. This system is an integral part to achieving the objectives set out in the Air Quality Strategy for England, Scotland, Wales and Northern Ireland, published in January 2000, and the Air Quality Regulations 2000¹. Local authorities should also read this guidance together with the other notes in the series, which are listed in Appendix 1. The Scottish Executive is issuing its own LAQM policy guidance.
6. The Greater London Authority Act 1999 provides for the Mayor of London to publish an air quality strategy for the capital. The London Air Quality Strategy must include proposals for implementing in Greater London the policies contained in the Air Quality Strategy. It must explain what steps the Mayor will take to meet the national air quality objectives in London and must include information on current and likely future air quality.
7. The London Air Quality Strategy will not replace local authority duties under LAQM. However, London local authorities will have to take account of it when carrying out their LAQM duties. London local authorities must consult the Mayor on their reviews and assessments of air quality and on their air quality management area (AQMA) action plans. The Mayor of London must also take account of this guidance in exercising any powers of direction under section 85(2) to (4) of the Environment Act 1995.

Review and assessment of air quality

8. Section 82 of the Environment Act 1995 says that local authorities must review and assess air quality. This process should identify areas where national policies and instruments alone are unlikely to meet the air quality objectives. Where this is the case, authorities are required to designate AQMAs and to draw up action plans. LAQM.G1(00) *Framework for Review and Assessment of Air Quality* sets out this process in more detail. LAQM.G2(00) *Developing local air quality action plans and strategies – the main considerations* gives authorities some advice on practical things they can do to improve air quality, and highlights some synergies with other areas, including land use planning.
9. A key principle of LAQM is that local authorities should integrate air quality considerations with other policy areas, such as planning. A multi-disciplinary approach both within and between authorities is likely to be the most effective way to improve air quality. Local authorities should look carefully at how they organise themselves and think about how they can best bring air quality considerations into the planning process at the earliest possible stage.

The land use planning context

10. Local authorities need to understand the links between air quality and land use planning policies if the planning system is to contribute to the air quality objectives set out in the Air Quality Regulations 2000. Although the land use planning system does not offer any quick-fix solutions to areas of poor air quality, it can do much to improve local air quality in the longer term.

¹ There are separate Air Quality Regulations for England, Scotland and Wales. At the time this guidance was published, Regulations for England and Wales had not been laid before Parliament and the National Assembly for Wales. In Scotland, the Air Quality (Scotland) Regulations 2000 had been laid before Parliament. The Regulations are all expected to come into force in Spring 2000, subject to the appropriate parliamentary or assembly approval.

11. Planning policies relevant to local authorities' air quality responsibilities are set out in Planning Policy Guidance (PPG) notes, and Technical Advice Notes (Wales) (TAN(W)). These notes:
- set out the Government's and National Assembly for Wales' policies on land use planning;
 - explain how the planning system can help meet the objectives of sustainable development;
 - are regularly reviewed and updated;
 - should be applied to development plans; and
 - may also be a material consideration in individual planning applications and appeals
12. Among the most relevant to local air quality management are:
- **PPG23 *Planning and Pollution Control*** (DOE, July 1994, ISBN 0 11 752947 8). This is currently being revised (see paragraph 15). In Wales, draft TAN(W) *Planning, Pollution Control and Waste Management* (December 1996) – this document is currently being revised;
 - **PPG13 *Transport*** (revised consultation draft was issued by the DETR in October 1999, and final version of guidance will be issued later in 2000). In Wales, TAN(W) 18 *Transport* (July 1998) – this document will be revised during 2000;
 - *Guidance on Provisional Local Transport Plans* (DETR, April 1999);
 - **PPG6 *Town Centres and Retail Developments*** (DOE, June 1996, ISBN 0 11 753294 0). In Wales, TAN(W)4 *Retailing and Town Centres* (November 1996);
 - **PPG4 *Industrial and Commercial Development and Small Firms*** (DOE, November 1992, ISBN 0 11 752723 8);
 - *Planning Guidance (Wales): Planning Policy First Revision* (April 1999, ISBN 0-7504-2343-9 – this document will be revised during 2000.
13. The Government and the National Assembly for Wales update PPG and TAN (W) Notes from time to time. Revised guidance notes will in future include more specific reference to the air quality provisions of Part IV of the Environment Act 1995 and the Air Quality Strategy for England, Scotland, Wales and Northern Ireland, where appropriate. A consolidated list of statements of national planning policy, including details of all extant PPG notes, Minerals Policy Guidance notes and Regional Planning Guidance notes, is available via the DETR's website at www.databases.detr.gov.uk/planning/npp.
14. Local planning authorities should also be aware of the good practice guide on air quality and land use planning, published by the Royal Town Planning Institute (RTPI) in April 1999. This sets out in general terms the relationship between air quality issues and planning decisions. It also tries to establish how far the planning process itself can contribute to air quality objectives. You can order copies of the good practice guide from the RTPI (tel 020 7636 9107, website www.rtpi.org.uk).

Planning and pollution control

15. PPG23 *Planning and Pollution Control* explains the relationship between the land use planning and pollution control systems. Paragraphs 16 to 22 below summarise some of the key points (but see also paragraphs 39 to 44). The Government is currently revising PPG23. Separate guidance on waste planning has been issued as the new PPG10. Guidance on contaminated land and on air and water pollution will be revised during 2000. The Pollution Prevention and Control Act 1999 provides for a new system of pollution prevention and control (PPC) which will be phased in from 2000. The Environment Agency and local authority environmental health departments will both have responsibility for implementing the provisions in the new Act, and the revised PPG23 will include further guidance on this. The National Assembly for Wales is currently revising the TAN on *Pollution Control and Waste Management*.
16. The pollution control and planning systems are separate but complementary. The planning system should not duplicate the statutory responsibilities of other bodies. The Environment Agency and local authorities regulate specified (“prescribed”) industrial processes, in order to limit and make harmless any polluting substances released into the atmosphere. The planning system regulates where development can take place and controls what operations may be carried out, in order to avoid or minimise the adverse effects of any potential pollutants on present or future land use, in accordance with the principles of sustainable development. See the good practice guide on *Planning for Sustainable Development: Towards better practice* (available via the DETR website at www.planning.detr.gov.uk).
17. Development plans² “are an important vehicle for promoting environmental protection through integrated land-use policies³” and should take account of any “constraints on development as a result of the need to comply with any statutory environmental quality standards or objectives⁴”. This will include the air quality objectives set under Part IV of the Environment Act 1995 and the associated action plans for AQMAs. Development plans should identify where further development is constrained by the cumulative effect of existing and future polluting uses of land⁵. In drawing up development plans, local planning authorities will therefore need to take account of air quality predictions. They will also need to consult colleagues dealing with air quality in the relevant local authority(ies) – normally the environmental health department – and the Environment Agency.
18. Local planning authorities need to understand the scope and purpose of pollution control conditions when considering applications for potentially polluting developments (including any additional road traffic generated by new residential or other development). Again, they should work closely with the Environment Agency and other enforcement authorities when considering what effect proposed developments might have on air quality. This is particularly important since the timing of applications may vary under the different regimes. Information which may be relevant to an authorisation under Part I of the Environmental Protection Act 1990 may not be available when applying for planning permission under the Town and Country Planning Act 1990. There would be obvious

² In England, development plans will comprise one or more of the following land-use plans – structure plans, local plans, unitary development plans (UDPs), and mineral and/or waste local plans. In Wales, all unitary authorities and National Parks must prepare UDPs.

³ para 2.12, PPG23

⁴ para 2.12, PPG23

⁵ para 2.12, PPG23

benefits if the two procedures could operate in parallel but, when that is not possible, any problems may best be resolved at a local level. Co-operation between and within local authorities will be important.

19. Where an environmental statement is required, local planning authorities will need to work closely with the Environment Agency from as early a stage as possible. An environmental statement should cover a project's likely effect on air quality (see also paragraph 23 below). It should include broadly similar information to an application for Integrated Pollution Control authorisation under Part I of the Environmental Protection Act 1990. The revised PPG23 referred to in paragraph 15 will address the links between environmental statements under the PPC and planning systems. The local planning authority must consider all the information in the environmental statement, including any details on effects that it regulates. If the authority grants planning permission, it must be satisfied that any remaining pollution concerns are capable of being dealt with under the Environmental Protection Act 1990 or other pollution control regime.
20. If a proposed source of emissions does not require a pollution control permit (e.g. if the source is not regulated under IPC or LAPC, or if only some of its emissions are regulated under the Clean Air Act 1993), then local planning authorities might, in some circumstances, consider adding conditions to the planning permission, to tackle the source's possible effect on land use or amenity. These conditions might require a scheme of monitoring and mitigation, covering planning concerns to be approved by local planning authorities before the development went ahead⁶. In these cases, local planning authorities should work closely with the Environment Agency and/or local authority environmental health department, as appropriate. Where conditions are not enough to overcome the planning objection to a development proposal, it may be appropriate for the parties to agree a 'planning obligation'. Section 106(1) of the Town and Country Planning Act 1990⁷ enables any person interested in land in the area of a local planning authority to enter into a planning obligation. This is an agreement with the authority. Local planning authorities should, however, avoid unnecessary conditions or obligations that duplicate the effect of other controls. Also, conditions that conflict with other controls would be ultra vires (beyond the authority's powers) because they are unreasonable.
21. Sometimes installation of new plant or the alteration of existing plant needs an authorisation under Part I of the Environmental Protection Act 1990 but does not need planning permission. Whether or not planning permission is required, local authorities and the Environment Agency must take into account the proposal's effect on the local environment. Local authorities must also take account of guidance⁸ issued by the Secretary of State for the Environment, Transport and the Regions and in Wales by the National Assembly for Wales under the 1990 Act on air pollution control standards.
22. All this emphasises the need for good communications between local planning and pollution control authorities. They should work closely together at both development plan and development control levels to avoid duplication. Where possible, they should co-ordinate a joint approach to developers, sharing their expertise as early as possible in the decision-making process.

⁶ see also paragraph 77 of Annex to DOE Circular 11/95 (WO 35/95): *The Use of Conditions in Planning Permissions*

⁷ DOE Circular 1/97, Welsh Office Circular 13/97: *Planning Obligations*

⁸ Process Guidance Notes are issued by the Secretary of State under section 7 of the Environmental Protection Act 1990

Environmental impact assessment (EIA) and the planning process

23. Directive 85/337/EEC, as amended by Directive 97/11/EC, ('the EIA Directive') requires the environmental effects of certain public and private projects to be assessed. The Directive has been implemented largely through the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999⁹. The Regulations require the developer of a project, which is subject to EIA, to prepare an environmental statement describing the likely environmental effects of the project. The local planning authority must take account of this information and any representations made on it by consultees or members of the public before deciding the application for planning permission for the project. The information to be included in environmental statements is described in Schedule 4 to the Regulations (see also DETR Circular 2/99). It must include a description of the development, the likely environmental effects (including, but not restricted to, current and future air quality with, and in the absence of, the proposed development), mitigating measures envisaged, and an outline of the main alternatives studied by the applicant and the reasons for his/her choice (see also paragraph 19 above).

Transport

24. Transport is the main source of many significant pollutants, particularly in towns and cities. The Integrated Transport White Paper, *A New Deal for Transport: Better for Everyone*, published in July 1998, sets the framework for detailed policies (see paragraph 1.22). Land use planning is an important part of the overall transport policy package and can help in promoting more sustainable transport choices and reducing the need to travel. While land use planning can make only a small contribution to immediate improvements in air quality, it can help to meet environmental goals and have an important effect over time.
25. A draft revision to PPG13 (Transport), published in October 1999, places greater emphasis on the integration of planning and transport, and provides guidance on planning policies to deliver the Integrated Transport White Paper objectives. The final version of the guidance will be issued later this year. To ensure greater integration, local authorities should:
- ensure that strategies in the development plan and the local transport plan complement each other and that consideration of development plan allocations and local transport investment and priorities are closely linked;
 - focus major generators of travel demand in city, town and district centres and near to major public transport interchanges; and
 - locate local and day to day facilities which need to be near their clients in local centres so that they are accessible by walking and cycling.

⁹ SI 1999/293

26. Guidance on land use planning and transport in Wales is provided in Planning Guidance (Wales): Planning Policy First Revision (April 1999), Planning Policy Guidance (Wales): Unitary Development Plans (April 1996), and Technical Advice Note (Wales)18 'Transport' (July 1998). All three documents are being revised during 2000.

Local transport plans

27. *A New Deal for Transport: Better For Everyone* announced the creation of new local transport plans (LTPs). They will run for five years and cover all forms of transport. LTPs will establish coherent strategies to tackle transport problems. These will include air quality, which is likely to be one of the main drivers of LTPs in many urban areas. It is important that authorities co-ordinate LTPs with their policies to improve air quality (see LAQM.G3(00) for further advice on the relationship between LTPs and LAQM). This will be particularly important where there are two tiers of local government. District Councils should, for example, involve County councils in regional air quality steering groups (see Chapter 5 of LAQM.G1(00) for further information on this).
28. The London Boroughs are not required to produce LTPs. The Mayor, once elected, will produce an integrated transport strategy for London, and the Boroughs will then produce Local Implementation Plans. Until the GLA is up and running, the London Boroughs will produce interim transport plans.

Town centres and retail developments

29. PPG6 and Planning Guidance (Wales): *Planning Policy* complement the aims of PPG13. They recognise the need to cut pollution in congested town centres, while promoting their vitality, attractiveness and viability. The guidance advises local authorities to ensure good access to and movement within town centres, while at the same time minimising congestion, pollution and parking problems. This will not be straightforward, but it is essential that authorities aim to strike the right sort of balance between these different objectives. One of the things that authorities might wish to consider is a comprehensive car parking strategy. For further advice on this, see LAQM.G3(00) *Air quality and transport*.

Industrial and commercial developments and small firms

30. PPG4 and Planning Guidance (Wales): *Planning Policy*, together with PPG6, advises local planning authorities to promote mixed-use developments. They suggest that, where feasible and where environmental standards can be maintained, homes and businesses should be juxtaposed. This has implications for air quality and needs to be complemented by car parking policies and other transport measures.

Regional planning guidance

31. Regional planning guidance¹⁰ (RPG) has traditionally set out broad strategic policies for land use and development where there are issues which apply across regions or parts of regions. Under the Government's new proposals, published in February 1999 as draft PPG11 *Regional Planning*, RPG will also have a broader spatial role informing other strategies and programmes. In particular, it will incorporate a regional transport strategy so that as well as providing a framework for development plans, it will set the regional context for local transport plans. It will also pursue a complementary approach to the strategies of the Regional Development Agencies.
32. The Government has introduced new procedures for producing RPG. They place greater responsibility on regional planning bodies to work with the Government Offices and other stakeholders. The aim is to resolve regional planning issues through a draft RPG. This is tested by a non-statutory 'public examination' in front of a panel appointed by the Secretary of State. The Secretary of State then makes any changes as necessary and issues final RPG.
33. Regional planning bodies should take account of regional air quality considerations in reviewing RPG. One important part of the review process is the input of local authority regional or sub-regional air quality management groups. The Government's policy is to make national air quality data more accessible to local authorities. It provides regionally disaggregated data¹¹ for use in RPG and development plans. Regional planning bodies can uncover regional or sub-regional air quality issues by carrying out a more rigorous environmental assessment of RPG. This would form part of an overall sustainability appraisal, informed by air quality reviews and assessments. RPG can help local authorities tackle these issues. It can help improve air quality by, for example, providing guidance on locating regionally significant development. It can promote policies that will reduce people's need to travel and encourage them to use public transport. This integrated approach to planning and transport land use will then feed into decision-making through the development plan system.

Development plans

34. The 1990 Town and Country Planning Act and the Development Plan Regulations together require local authorities to include policies in their development plans to improve the physical environment. They must also consider the environment when drawing up their development plans. Local authorities can find general advice on preparing development plans in:
 - PPG12: *Development Plans*¹² (this includes sections on sustainable development and integrating transport and land use policies);

¹⁰ Regional Planning Guidance is used here as a generic term, which also includes Strategic Planning Guidance for London. In Wales, strategic planning issues are dealt with in Planning Guidance (Wales): *Planning Policy*

¹¹ The information is available from the Department of the Environment, Transport and the Regions' National Air Quality Information Archive on the Internet. The address is:
<http://www.environment.detr.gov.uk/airq/aginfo.htm>

¹² PPG12: *Development Plans* (DETR, December 1999, ISBN 1 85112 349 0)

- Planning Guidance (Wales): *Unitary Development Plans*, April 1996; and
 - *Environmental Appraisal of Development Plans – A Good Practice Guide*¹³
 - TAN(W)17 (*Environmental Assessment*) (published in July 1998).
35. The Government has also published *Planning for Sustainable Development: Towards Better Practice*¹⁴ which gives further advice on drawing up and implementing policies for sustainable development in development plans.
36. The Government and the National Assembly for Wales expect all local authorities to take account of the air quality objectives when preparing development plans. As the plans provide a strategic framework for planning decisions, they should refer to any AQMA action plan. Equally, authorities should develop action plans taking account of existing land use and development plans.
37. Development plan boundaries may not necessarily coincide with others relevant to air quality (such as AQMA boundaries). The range of plans and policies in the two may differ significantly. Air quality reviews and subsequent action plans should be separate from, but closely linked to and complementary to, development plans.
38. Local authorities are required to carry out air quality reviews from time to time. While there is no fixed timescale for this, authorities may benefit from reviewing air quality at the same time as they review their development plans. In any event, local planning authorities must appraise their development plans against these detailed assessments of air quality.

Air quality as a material consideration

39. Under section 54A of the Town and Country Planning Act 1990, planning authorities have to decide on planning applications according to the development plan, unless material considerations suggest otherwise. **Any air quality consideration that relates to land use and its development can be a material planning consideration.** Whether it actually is will depend on the facts of the case. These include the impacts of processes prescribed under Part I of the Environmental Protection Act 1990, and also other impacts, which may be controlled under such legislation as the Clean Air Act 1993, or Vehicle Regulations¹⁵. Alternatively, these impacts may be classed as a statutory nuisance under Part III of the Environmental Protection Act 1990.
40. Any considerations that may be relevant to a pollution control authorisation or licence may also be material considerations for planning decisions. How much weight authorities should attach to them will depend on the scope of the pollution control system in each case and the effect on land use and amenity. Planning authorities should work on the assumption that the pollution control regimes will be properly applied and enforced.

¹³ *Environmental Appraisal of Development Plans: A Good Practice Guide*. DOE 1994. ISBN 0 11 752866 8

¹⁴ *Planning for Sustainable Development: Towards Better Practice*, DETR 1998. ISBN 0 11 753406

¹⁵ *Road Traffic Act 1988 and the Road Vehicles (Construction and Use) Regulations* (SI 1986/1078)

41. In determining a planning application, local planning authorities should consider the development's likely effect not only in terms of the air pollution it may cause directly, but also in terms of any increase or decrease in traffic that it generates. The influence of air quality considerations on planning decisions will vary according to the circumstances. They must be weighed against other material considerations. But in reaching a planning decision, an authority should not give weight to objections on matters which are properly subject to the pollution control regime and which do not have land use planning implications.
42. Examples of planning cases where air quality has been a material consideration include an application to open a Safeways supermarket in Bath; an application to open a McDonalds restaurant in the London Borough of Ealing; and an application by Sainsbury's to build a petrol station near to the Blackwall Tunnel in the London Borough of Greenwich. For further details of each case, contact the Environment and Consumer Services Department, Bath and North East Somerset Council (01225 477000); Pollution Control, London Borough of Ealing (020 8758 5738); or the Pollution Control Team, London Borough of Greenwich (020 8921 8449).
43. There has also been a recent case involving Surrey Heath Borough Council's Local Plan, and a proposed residential development near the M3 motorway in Surrey Heath District. For further details on this, contact the Forward Planning Division, Surrey Heath Borough Council (01276 707 212).
44. In assessing how a development may affect air quality, local authorities should take account of the Air Quality Strategy objectives, the results of air quality reviews and assessments, and the content of AQMA action plans. Where a development is likely to affect air quality significantly (i.e. where the air quality objectives are likely to be breached), then, provided the impact relates to the use and amenity of land, the local planning authority may refuse the application or mitigate its effects by imposing conditions.

Summary

45. This guidance note is intended to serve only as a brief summary of some of the main ways in which land use planning can help deliver air quality objectives. It builds on the detailed advice contained in the relevant Planning Policy Guidance notes (in England) and Technical Advice Notes (in Wales), but is not intended to serve as a substitute for them. For further information and advice on a range of planning issues, authorities may also wish to visit the relevant part of the DETR's website (www.planning.detr.gov.uk).

APPENDIX 1

LAQM guidance booklets

LAQM.G1(00) – Framework for review and assessment of air quality

LAQM.G2(00) – Developing local air quality action plans and strategies – the main considerations

LAQM.G3(00) – Air quality and transport

LAQM.G4(00) – Air quality and land use planning

LAQM.TG1(00) – Review and Assessment: Monitoring air quality

LAQM.TG2(00) – Review and Assessment: Estimating emissions

LAQM.TG3(00) – Review and Assessment: Selection and use of dispersion models

LAQM.TG4 (00) – Review and Assessment: Pollutant specific guidance