

**STRATEGIC PLANNING,  
SUSTAINABILITY AND  
TRANSPORTATION COMMITTEE**

**5 December 2017**

**Review of Air Quality Management Area and Low Emissions Strategy**

<b>Final Decision-Maker</b>	Strategic Planning, Sustainability and Transportation Committee
<b>Lead Head of Service/Lead Director</b>	John Littlemore, Head of Housing and Communities
<b>Lead Officer and Report Author</b>	Duncan Haynes, Mid-Kent Environmental Protection Team Leader
<b>Classification</b>	Public
<b>Wards affected</b>	All

**Executive Summary**

The council is in the process of producing a combined Low Emission Strategy and Action Plan for air quality. It will incorporate and update the current Maidstone Air Quality Action Plan approved in 2008. The Council also proposes to revise the current Air Quality Management Area to reflect the extent of genuinely poor air quality. A public consultation exercise has been completed following approval of the draft strategy. The results of the consultation have been used to review and revise the strategy and action plan in a workshop with councillors held on the 10 November 2017. This report now seeks the adoption of the Low Emission Strategy and action plan together with the revised Air Quality Management Area before being submitted to Defra.

**This report makes the following recommendations to this Committee:**

1. That the Low Emissions Strategy be adopted.
2. That the associated Action Plan be adopted.
3. That the revised Air Quality Management Area included at Appendix 2 be approved.

**Timetable**

<b>Meeting</b>	<b>Date</b>
Strategic Planning, Sustainability and Transportation Committee	5 December 2017

# Review of Air Quality Management Area and Low Emissions Strategy

## 1. INTRODUCTION AND BACKGROUND

- 1.1 Previous reports to members on air quality have explained the benefit of having a holistic approach to the problems associated with improving air quality in Maidstone by adopting a Low Emissions Strategy (LES). In July 2017 the draft Low Emission Strategy was approved for public consultation. This report proposes that the council formally adopts the Low Emissions Strategy which includes an action plan (Appendix 1) to address air quality through actions within the control of the council or where the council can influence partner organisations. The report also proposes a revision of the Air Quality Management Area. Both documents have been considered and where appropriate revised following the consultation. Consultation response details are found in the background documents to the report.
- 1.2 The Low Emissions Strategy (LES) revises and incorporates the Council's Air Quality Action Plan which was last updated in 2008. The Environment Act 1995 also requires that Action Plans be periodically reviewed – while no time limit is set, the latest DEFRA Policy Guidance, PG16, states that DEFRA would expect this to occur no later than every five years and more frequently if significant changes to sources occur within your local area.
- 1.3 The Low Emission Strategy has been proposed in response to high levels of air pollution in specific parts of Maidstone. Previously the Council designated an Air Quality Management Area (AQMA) that covered the whole urban area due to elevated concentrations of Nitrogen Dioxide (NO<sub>2</sub>) at residential receptors in six areas of the Borough. NO<sub>2</sub> levels at key locations near to major roads and junctions remain above the EU Limit Value with no discernible downward trend. Monitoring of particulates (PM<sub>10</sub>) has not indicated an exceedance of the national objective. The council does not currently monitor PM<sub>2.5</sub>. There is currently no regulatory requirement to monitor PM<sub>2.5</sub> at a local level.
- 1.4 The predominant source of these elevated levels is the emissions of oxides of nitrogen (NO<sub>x</sub>) from road transport vehicles. Road transport vehicles are also a significant source of fine particulate concentrations in Maidstone.
- 1.5 Two issues are driving the development of the Low Emission Strategy
  - 1.5.1 Public Health. It is known that high pollution levels can be responsible for both short term and long term health effects. Long term exposure to air pollution is understood to contribute to deaths from respiratory and, particularly, cardiovascular disease. It is likely that air pollution contributes in a limited way to shorter life expectancy of a larger number of exposed individuals. The distribution of the mortality effect within the population is unknown.
  - 1.5.2 Legal. The UK is now in breach of the EU Air Quality Directive and infraction proceedings have commenced. The level of fines could reach

400 million Euros and under the reserve powers of the Part 2 of the Localism Act 2011, these fines can be passed on to any public authority whose act or omission has contributed to these breaches. It is therefore important that Maidstone Borough Council is able to demonstrate that it is taking this issue seriously and taking reasonable steps to comply with the statutory duty. Being able to demonstrate the Council has gone beyond this benchmark further strengthens the Council's position.

1.5.3 The United Kingdom is currently in the process of leaving the European Union. It is unclear exactly what if any impact this may have on air quality targets for the UK; this will not be known for several years. However the UK remains a signatory of the Paris Accord binding it to reducing emissions. The budget statement of November 2107 also included variety of measures aimed at improving air quality including increased tax on certain new diesel vehicles, and establishing a clean air fund. This indicates the governments' ongoing commitment to air quality. UK government has also recently published its national action plan which has now been challenged by Client Earth. This strategy continues to place much of the responsibility for local air quality with local authorities.

1.6 The aims of the Low Emission Strategy are as follows:-

- a)** To achieve a higher standard of air quality across Maidstone.
- b)** To embed an innovative approach to vehicle emission reduction through integrated policy development and implementation in Maidstone.
- c)** To improve the emissions of the overall vehicle fleet using the Maidstone road network beyond the 'business as usual' projection, through the promotion and uptake of low and ultra-low emission vehicles.
- d)** To reduce emissions through an integrated and holistic approach covering all appropriate corporate policy areas. Under each area, specific actions aimed at reducing emissions are included.
- e)** To assist Maidstone Borough Council comply with its statutory air quality obligations.

1.7 The Maidstone Low Emissions Strategy provides the context for Council's ambition to improve air quality and a programme of measures it wants to implement. The LES combines the updated action plan within it. The action plan is divided into key themes each with measures assigned to it. The themes are; Planning, Transport, Public Health, Property and Carbon Management, and Procurement.

1.8 The action plan (Appendix 1 of the strategy) has been developed through a series of workshops based on each theme with specialists, Councillors and Officers. The action plan has then been further refined following the consultation by Councillors working with officers. The workshop to finalise

the proposed action plan signified the completion of the specific task allocated to the group by the Strategic Planning and Sustainable Transport Committee. The terms of reference for the working group are included in the background documents.

- 1.9 There are 32 actions listed in total. Some of the actions can be delivered within MBC while the majority of actions will involve working with active participation from partners outside the authority. The most important of these are Kent County Council (KCC) and bus operators without whom the projects that are likely to make most impact are unlikely to be successful. A full breakdown of the key stakeholders for each project is included in the action plan appended to the strategy.
- 1.10 The action plan includes projects which can be delivered using existing knowledge and resources within the Council. It also includes ambitious projects which require extensive research and funding provision to deliver, for example, development of a "Low Emissions Zone" or a "Clean Air Zone" which requires extensive research to fully identify the mechanisms, costs, risks and benefits. Projects of this nature if carried forward to the final action plan will be subject to individual reporting for approval prior to being implemented. This will enable Councillors to decide if they wish to proceed from a basis of the best available information. These projects have been clearly marked in the action plan with estimated or "ball park" costs provided. Where there are projects that the council cannot fund within existing resources alternative sources of funding will be sought. This will either be in the form of making bids to government schemes or private sector sponsorship. Where this is the case the actions are unlikely to progress if this funding cannot be secured. These actions are clearly labelled in the action plan.
- 1.11 A limited assessment of potential impact and risk is included in the action plan where there are as yet unknown costs or risks this is identified. The actions in each section of the action plan have been listed and numbered in order of their potential impact on air quality.
- 1.12 The actions in each section likely to have the greatest impact are; Transport – Implementation of a Low Emissions or Clean Air zone, Planning – Implementation of a Local Plan Development Document, Procurement – Review of Commissioning and Procurement Strategy, Property and Carbon Management – Review of Park and Ride, Public Health - Raise public awareness of AQ issues and promotion of good practices by important stakeholders
- 1.13 The LES will complement but not duplicate a number of other ongoing policies of the council including but not limited to, Local Plan, Infrastructure Delivery Plan, Integrated Transport Strategy, Cycling and Walking Strategy, Licensing Policy, Parking Policy, Commissioning and Procurement Strategy. Where applicable, the LES and its guiding principles will seek to influence new or revised Council policies or strategies to ensure that emissions reduction is considered.
- 1.14 The LES will also support but not duplicate the work of the councils Public Health initiatives in particular those relating encouraging car users to travel

by alternative means such as public transport and active travel specifically the Cycling and Walking Strategy.

- 1.15 In line with the Council's Constitution progress on the actions approved will be reported back to the Strategic Planning, Sustainability and Transportation Committee on an annual basis co-ordinated by the Environmental Protection Team. The action plan appended to the strategy will be updated at this time to show what progress and outcomes made. The strategy as a whole will be reviewed in 2021 in line with the review of the Local Plan.

### ***Air Quality Management Area***

- 1.16 The current Maidstone Air Quality Management Area (AQMA) was declared in 2008 and covers the whole urban and suburban area of Maidstone. The significant update of the action plan should trigger a review of the AQMA to ensure that the action plan is directly relevant to the AQMA.
- 1.17 Since 2008 Maidstone have refined the air quality information gathered and developments in air quality modelling enable officers to define areas of air quality exceedance ( $40\mu\text{g}/\text{m}^3$ ) far more accurately.
- 1.18 The data was provided to a leading UK Air Quality Consultancy, commissioned to model the extent of the areas of poor air quality providing several options to consider.
- 1.19 The current and proposed AQMA boundaries are shown in Appendix 2.
- 1.20 Redrawing the boundaries of the AQMA more accurately to reflect areas of exceedance will remove the unfairness of including premises within the area where there is no evidence of exceedances but imposes additional development costs to undertake air quality assessments. This also enables the Council to focus its energies more effectively and progress the ambitious actions proposed in the strategy.

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## **2. AVAILABLE OPTIONS**

- 2.1 Option 1: Adopt the Low Emissions Strategy and action plan with the revision of the AQMA. The joint revision of the AQMA and adoption of a LES and action plan ensures there is correlation between the area affected by poor air quality and the actions taken to improve air quality.
- 2.2 Option 2: Adopt the Low Emission Strategy and action plan without changing the AQMA boundaries. This raises a risk of distortion between strategy and AQMA and fails to reflect the current knowledge of air quality in the borough. It may be difficult to evidence that the Council is being proportionate if the proposed actions cannot be justified over such a wide area.
- 2.3 Option 3: Approve the revision of the AQMA. The current AQAP adopted in 2008 will remain in place. It will be necessary to review the AQAP in its own right and produce a more limited plan to replace it.

- 2.4 Option 4: Do nothing. Approve neither the Low Emissions Strategy with appended action plan nor revise the AQMA. The Council has a statutory duty to have an AQAP in response to the declaration of the current AQMA in 2008. The current AQAP also issued in 2008 and must now be updated in its own right should the decision be taken not to progress with the LES. This plan would be more limited in scope than the proposed LES and have reduced impact on air quality and health.
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### **3. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS**

- 3.1 Option 1: Adopt the Low Emissions Strategy and action plan with the revised AQMA.
- 3.2 This option provides a robust review of the air quality within the borough based on current information and knowledge from air quality data. It provides links to the LES and action plan to provide mitigation and remediation of air quality exceedances in the borough. The revision of the AQMA is also necessary to justify a number of the proposed actions which it would be appropriate to enact over the wider area of the current AQMA.
- 3.3 Adopting the LES with the action plan provides a more streamlined strategy that will enable the council to fulfil its statutory responsibility. It will also provide a holistic approach to tackling the issues associated with poor air quality.
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### **4. RISK**

- 4.1 The Council is required to have an up to date AQAP, without this there is a risk that the Council will be in breach of its statutory duty. While the Council does not have to have an LES, this LES, incorporating an AQAP will fulfil its statutory duty. If the Council does not progress the LES it will need to revise the AQAP.
- 4.2 The UK government is currently facing infraction proceedings for failing to meet its targets to reduce poor air quality. Government has proposed that it may pass on any fines to local authorities that it perceives are failing to tackle air quality. The LES represents an opportunity to demonstrate that the Council is taking the matter seriously and doing more than the statutory minimum to address it.
- 4.3 The issue of poor air quality continues to gain a significantly higher public profile both nationally and locally. The LES represents an opportunity to demonstrate that the Council is taking the matter seriously and doing more than the statutory minimum to address it.
- 4.4 There are a number of proposed actions in the action plan which are potentially controversial and may prove unpopular with specific stakeholders or groups such as bus companies. In these cases where actions require

further preparatory investigation and risk appraisal such as the imposition of a Low Emissions Zone they will be subject to specific and individual reporting and committee approval.

## **5. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK**

- 5.1 The proposed strategy, action plan and revision of the AQMA have been subject to specific consultation. This included statutory consultees in DEFRA, Environment Agency, Highways England, neighbouring local authorities, County Council. In addition all Councillors, Parish Councils, local residents, local businesses, local MP and targeted special interest groups were also consulted.
- 5.2 Following approval by the SPST Committee the consultation was conducted over an 8 week period. It included direct contact with the statutory consultees, Councillors and Parish Councillors, special interest groups and any partners identified. This included social media to publicise the consultation in addition to notifying everyone registered with the council's consultation team. Environmental Protection Officers and Councillors undertook a consultation day in Jubilee Square where they were actively promoting the strategy consultation. In addition two public focus groups were held and a business focus group organised. Unfortunately the group was cancelled due to lack of uptake, however 1-1 interviews were offered to those businesses that expressed a wish to attend.
- 5.3 The response rate was good when considered in the context of a relatively intangible and technical subject area. A total of 57 individual responses were received, 4 organisation responses were received, and the focus groups involved 15 people over 2 evenings.
- 5.4 It is notable that of the statutory consultees only one made a response which was out of time and could not be formally included. However it was generally supportive of the strategy. The residents consultation results are summarised and included in the background documents, the organisation responses are included in the background documents. Feedback was grouped into themes with responses to individual comments provided as appendix 3.
- 5.5 The feedback received from the consultation has been collated and analysed. This was then considered by the Councillor/Officer working group on 10 November 2017 and changes to the action plan and strategy incorporated in the final documents presented. The consultation has resulted in a further 4 actions being included in the action plan, which includes a review of the air quality monitoring network, more extensive involvement in electric vehicle promotion and more work to raise awareness of air quality issues. It has also resulted in the addition of a section highlighting areas for future work specifically around agricultural and biomass emissions.

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## **6. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION**

- 6.1 Following adoption of the Low Emissions Strategy, it will be made available to all interested parties. All stakeholders who are involved in implementing the action plan will be contacted specifically. Progress against actions will be reported annually.
- 6.2 The boundary of the Air Quality Management Area will be formally changed following the DEFRA prescribed process.

## 7. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
<b>Impact on Corporate Priorities</b>	Keeping Maidstone Borough an attractive place for all – by seeking to improve the air quality and the health of residents and visitors to the borough.	[Head of Service or Manager]
<b>Risk Management</b>	Refer to section 4 of the main report.	[Head of Service or Manager]
<b>Financial</b>	It is anticipated that most projects will be delivered using existing budgets and resources. However there are some projects such as the potential low emissions zone or clean air zone that will require extensive further research and costing. In these cases where there are significant cost implication these projects with fully detailed costing will be subject to separate reporting to committee to enable an informed decision to be made. A small number of actions will only be delivered if external funding can be secured. These are clearly highlighted in the action plan.	[Section 151 Officer & Finance Team]
<b>Staffing</b>	It is anticipated that most actions will be delivered by the relevant areas of the Council within existing staffing levels. However there are some larger projects such as the potential low emissions zone that may require additional resources to be made available.	[Head of Service]

<b>Legal</b>	Accepting the recommendations will fulfil the Council's duties under the local air quality regime. Failure to accept the recommendations without agreeing suitable alternatives may place the Council in breach of Environment Act 1995 Acting on the recommendations is within the Council's powers as set out in the Environment Act 1995.	Cheryl Parks, Lawyer (Planning), Mid-Kent Legal Services
<b>Privacy and Data Protection</b>	The action listed is unlikely to result in the gathering of personal data. All air quality monitoring data is made available publicly.	Legal Team
<b>Equalities</b>	The equalities impact has been considered as part of the revised Air Quality Management Area (AQMA) proposed. There is no detriment to groups with protected characteristic. The refocusing of the AQMA will contribute to positive outcomes for all residents.	Equalities and Corporate Policy Officer
<b>Crime and Disorder</b>	No issues identified	[Head of Service or Manager]
<b>Procurement</b>	The LES will provide for emissions and sustainability factors to be considered to a greater degree in procurement	[Head of Service & Section 151 Officer]

## 8. REPORT APPENDICES

- Appendix 1: Low Emission Strategy and action plan
- Appendix 2: Revised Air Quality Management Area
- Appendix 3: Themed responses to residents survey
- Appendix 4: Equalities Impact Assessment

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## 9. Background Documents

Residents' consultation results

Organisation consultation responses

Responses received after deadline

Working Group Terms of Reference