



BEACON FEN ENERGY PARK

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Appendix 16.1 – Legislation, Policy and Guidance

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Appendix 16.1: Legislation, Policy and Guidance

Air Quality Legislation and National Air Quality Strategy

- 1.1.1 The Environment Act 1995 (subsequently superseded by the Environment Act 2021) required the UK government to prepare a National Air Quality Strategy. The UK National Air Quality Strategy (NAQS) was therefore published in March 1997 setting out policies for the management of ambient air quality. The Strategy sets objectives for eight pollutants, which may potentially occur in the UK at levels that give cause for concern. These pollutants are: nitrogen dioxide (NO₂), sulphur dioxide, carbon monoxide, lead, fine particulate matter (PM₁₀), benzene, 1, 3-butadiene and ozone.
- 1.1.2 The Strategy was reviewed and a Review Report¹ and Consultation Document² were published by the Department of the Environment, Transport and the Regions in 1999. A revised version (The Air Quality Strategy (AQS) 2000), which supersedes the 1997 Strategy, was published in January 2000. The AQS 2000 strengthens the objectives for a number of pollutants with the exception of that for particulates, which was replaced with the less stringent EU limit value.
- 1.1.3 The objectives for the eight pollutants in the Strategy provide the basis of the implementation of Part IV of the Environment Act 1995. The Air Quality Strategy objectives for each pollutant, except ozone, were given statutory status in the Air Quality (England) Regulations, 2000³ and Air Quality (England) (Amendment) Regulations 2002⁴ ('the Regulations').
- 1.1.4 In 2007 the Air Quality Strategy was revised. This revised strategy⁵ does not remove any of the objectives set out in the previous strategy or its addendum, apart from replacing the provisional 2010 objective for PM₁₀ in England, Wales and Northern Ireland with the exposure reduction approach for PM_{2.5}. The UK Government and the Devolved Administrations have now therefore set new national air quality objectives for particulate matter smaller than 2.5µm diameter (PM_{2.5}). An updated Air Quality Strategy⁶ was adopted in England only in November 2023, which sets out new PM_{2.5} targets of 10µg/m³ annual mean concentration PM_{2.5} nationwide by 2040, with an interim target of 12µg/m³ by 2028.
- 1.1.5 EU Directive 2008/50/EC⁷ came into force in June 2008 and was transposed into legislation in England on 11th June 2010 as 'The Air Quality Standards

¹ Department of the Environment, Transport and the Regions, January 1999. Report on the Review of the National Air Quality Strategy, Proposals to amend the Strategy

² Department of the Environment, Transport and the Regions 1999, The Air Quality Strategy for England, Scotland, Wales and Northern Ireland. A consultation document

³ The Air Quality (England) Regulations 2000. SI No 928

⁴ The Air Quality (Amendment) Regulations 2002

⁵ Department of Environment, Food and Rural Affairs, The Air Quality Strategy for England, Scotland, Wales and Northern Ireland. July 2007

⁶ Department of Environment, Food and Rural Affairs, Air Quality Strategy Framework for Local Delivery. August 2023

⁷ Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on Ambient Air Quality and Cleaner Air for Europe

Regulations 2010⁸, subsequently amended in 2016. This EU Directive consolidates existing air quality legislation and makes achievement of the objectives a national objective rather than a local one. It also provides a new regulatory framework for PM_{2.5}. Although the UK has subsequently left the EU, the Air Quality (Amendment of Domestic Regulations) (EU Exit) Regulations 2019 was passed to amend domestic legislation implementing the EU legislation to ensure its continued operation after withdrawal.

- 1.1.6 The current Air Quality Standards and Objectives (AQOs), as set out in the Air Quality Standards Regulations 2016, are detailed in Table 1 and are used in the assessment.

Table 1: UK Air Quality Objectives and Pollutants			
Pollutant	Objective	Averaging Period	Obligation
Nitrogen Dioxide (NO ₂)	200µg/m ³ not to be exceeded more than 18 times a year	1-hour mean	All local authorities
	40µg/m ³	Annual mean	All local authorities
Particulate Matter (PM ₁₀)	50µg/m ³ not to be exceeded more than 35 times a year	24-hour mean	All local authorities
	50µg/m ³ not to be exceeded more than 7 times a year	24-hour mean	Scotland only
	40µg/m ³	Annual mean	All local authorities
	18µg/m ³	Annual mean	Scotland only
Particulate Matter (PM _{2.5})	20µg/m ³ (target level) 12 µg/m ³ (target level for 2028) 10 µg/m ³ (target level for 2040)	Annual mean	England only
	10µg/m ³	Annual mean	Scotland only
Sulphur Dioxide (SO ₂)	266µg/m ³ not to be exceeded more than 35 times a year	15-minute mean	All local authorities
	350µg/m ³ not to be exceeded more than 24 times a year	1-hour mean	All local authorities
	125µg/m ³ not to be exceeded more than 3 times a year	24-hour mean	All local authorities
Benzene (C ₆ H ₆)	16.25µg/m ³	Running annual mean	All local authorities
	5µg/m ³	Annual mean	England and Wales only
	3.25µg/m ³	Running annual mean	Scotland and Northern Ireland only
1,3-Butadiene (C ₄ H ₆)	2.25µg/m ³	Running annual mean	All local authorities
Carbon Monoxide (CO)	10mg/m ³	Maximum daily running 8-hour mean	England, Wales and Northern Ireland only
	10mg/m ³	Running 8-hour mean	Scotland only
Lead (Pb)	0.5µg/m ³	Annual mean	All local authorities
	0.25µg/m ³	Annual mean	All local authorities

Legislative Requirement for Local Air Quality Management Guidance

- 1.1.7 The Air Quality Strategy for England, Scotland, Wales and Northern Ireland, July 2007, establishes the framework for air quality improvements based on measures agreed at a national and international level. The Strategy has been

⁸ Statutory Instruments 2010 No. 1001 The Air Quality Standards Regulations 2010

replaced by the updated Air Quality Strategy Framework for Local Authority Delivery (2023) in August 2023 in England only, Which sets out a framework for local authorities to comply with long-term air quality goals, including new targets for PM_{2.5} (see Table 1). However, despite these measures, it is recognised that areas of poor air quality will remain and these should be dealt with through the Local Air Quality Management (LAQM) process using locally implemented measures.

- 1.1.8 LAQM legislation in the Environment Act 1995 requires local authorities to conduct periodic review and assessments of air quality. These aim to identify all those areas where the air quality objectives are being, or are likely to be, exceeded.
- 1.1.9 All authorities were required to undertake the first stage of review and assessment which concluded in September 2001. In those areas identified as having the potential to experience elevated levels of pollutants the authority was required to undertake a more detailed second stage review comprising two steps; Updating and Screening Assessments and Detailed Assessments. Where it was predicted that one or more of the air quality objectives would be unlikely to be met by the end of 2005, local authorities were required to proceed to a third stage and, if necessary, declare Air Quality Management Areas (AQMAs) and make action plans for improvements in air quality, in pursuit of the national air quality objectives.
- 1.1.10 An Evaluation Report, commissioned by the UK Government and Devolved Administrations in 2007, led to the publication of the LAQM Technical Guidance document LAQM.TG(09) in February 2009. This technical guidance was updated in January 2016 (LAQM Technical Guidance document LAQM.TG(16)) and most recently in August 2022 (LAQM Technical Guidance document LAQM.TG(22)).
- 1.1.11 LAQM.TG(22) presents the changes to the LAQM system across the UK. A new streamlined approach has been adopted in England, Scotland and Wales; however Northern Ireland is still considering changes to LAQM and therefore, work according to the previous regimes.
- 1.1.12 The previous structure of Review and Assessment, comprising Updating and Screening Assessments and Detailed Assessments has been replaced by the introduction of an Annual Status Report (ASR) for England and an Annual Progress Report (APR) for Scotland.
- 1.1.13 The ASR replaces all other reports which previously had to be submitted as part of the LAQM system including Action Plans, Progress Reports, Updating and Screening Assessments and Detailed Assessments.
- 1.1.14 Local authorities now have the option of a fast track AQMA declaration. This allows more expert judgement to be used and removes the need for a detailed assessment where a local authority is confident of the outcome. Detailed assessments should still be used if there is any doubt.
- 1.1.15 Examples of where the Air Quality Objectives should/should not apply are also detailed in LAQM.TG(22) and are included in Table 16.2 below.

Table 16.2: Examples of Where the Air Quality Objectives Should Apply		
Averaging Period	Objectives Should Apply at:	Objectives Should Generally Not Apply at:
Annual mean	All locations where members of the public might be regularly exposed. Building façades of residential properties, schools, hospitals, care homes, etc.	Building facades of offices or other places of work where members of the public do not have regular access. Hotels, unless people live there as their permanent residence. Gardens of residential properties. Kerbside sites (as opposed to locations at the building façade) or any other location where public exposure is expected to be short term
24-hour mean and 8-hour mean	All locations where the annual mean objectives would apply together with hotels. Gardens of residential properties ^a	Kerbside sites (as opposed to locations at the building façade), or any other location where public exposure is expected to be short term
1-hour mean	All locations where the annual mean and 24 and 8-hour objectives apply. Kerbside sites (e.g. pavements of busy shopping streets). Those parts of car parks and railway stations etc. which are not fully enclosed, where members of the public might reasonably be expected to spend one hour or more. Any outdoor locations to which the public might reasonably be expected to spend one hour or longer	Kerbside sites where public would not be expected to have regular access
15-minute mean	All locations where members of the public might reasonably be exposed for a period of 15 minutes or longer	
^a Such locations should represent parts of the garden where relevant public exposure is likely, for example where there is seating or play areas. It is unlikely that relevant public exposure to pollutants would occur at the extremities of the garden boundary, or in front gardens, although local judgement should always be applied		

Policy

1.1.16 Planning policy at the national, regional and local level and its relevance to environmental design and assessment is discussed in the Planning Statement submitted as part of this planning application. Policies relevant to air quality are discussed, below.

Overarching National Policy Statement for Energy (EN-1)

1.1.17 Air quality is addressed under Section 5.2 Air Quality and Emissions, Paragraphs 5.2.1 – 5.2.19, which advises that:

“5.2.8 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 ES.

5.2.9 The ES should describe:

- *existing air quality concentrations and the relative change in air quality from existing levels;*
- *any significant air quality effects, mitigation action taken and any residual effects, distinguishing between the project stages and taking account of any significant emissions from any road traffic generated by the project; Overarching National Policy Statement for Energy (EN-1) 97*
- *the predicted absolute emissions, concentration change and absolute concentrations as a result of the proposed project, after mitigation methods have been applied; and*
- *any potential eutrophication impacts.*

5.2.10 *In addition, applicants should consider the Environment Targets (Fine Particulate Matter) (England) Regulations 2022 and associated Defra guidance.*^{*9}

National Policy Statement for Renewable Energy Infrastructure (EN-3)

1.1.18 Air quality is not specifically addressed in relation to solar photovoltaic installations in EN-3, which only refers to air quality in relation to biomass and waste combustion.

National Policy Statements for Energy – Appraisal of Sustainability – Main Report

1.1.19 Air quality forms AoS Objective 8: *Protect and Enhance Air Quality* discussed at Section 5.9 of the Main Report, as follows:

“5.9.1: Anticipated Effects

1.1.20 Enabling the development of energy infrastructure to meet the energy demands of the UK has the potential for a number of generic adverse effects on air quality which are applicable across the different types of energy infrastructure development. They include:

- *emissions generated as a result of construction activities (transport emissions from the transport of materials, resources and personnel; dust and fumes from machinery operation, excavation and drilling);*
- *emissions from project operation (operation of plant, transport of materials, resources and personnel); and*
- *emissions from plant, machinery and vehicles during the decommissioning of projects (including transport to and from site).”*

1.1.21 In relation to the EIA process, it is noted in Section 5.9.1 (p.163) that *“The significance of effects will depend upon local site-specific factors, such as transport routes and proximity to sensitive receptors and it is anticipated these will be dealt with during the project level EIA.”*

National Planning Policy Framework (NPPF) (2024)

1.1.22 Chapter 15 – ‘Conserving and enhancing the natural environment’ covers environmental components of placemaking, outlining how planning policies

^{*9} Background concentrations of PM_{2.5} are addressed in the chapter and are well below the target levels (including the forthcoming targets for 2028 and 2040. As there is no requirement for detailed assessment of vehicle emissions, PM_{2.5} has not been discussed further than this.

and decisions should contribute to and enhance the natural and local environment, including air quality. Paragraph 199 states that:

“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.”

Regional Policy

1.1.23 There are currently no applicable regional policies of relevance to this assessment.

Local Policy

Central Lincolnshire Local Plan – Adopted April 2023

1.1.24 The *Central Lincolnshire Local Plan* was adopted in April 2013¹⁰. It provides policies and proposals to assist in guiding development and land use change throughout the district. There are no specific policies associated with air quality; however, air quality is mentioned in two relevant policies relating to other subjects, as below;

“Policy S14: Renewable Energy

The Central Lincolnshire Joint Strategic Planning Committee is committed to supporting the transition to a net zero carbon future and will seek to maximise appropriately located renewable energy generated in Central Lincolnshire (such energy likely being wind and solar based). Proposals for renewable energy schemes, including ancillary development, will be supported where the direct, indirect, individual and cumulative impacts on the following considerations are, or will be made, acceptable. To determine whether it is acceptable, the following tests will have to be met:

...iii. The impacts are acceptable on the amenity of sensitive neighbouring uses (including local residents) by virtue of matters such as noise, dust, odour, shadow flicker, air quality and traffic;”

“Policy S53: Design and Amenity states:

7. Uses

...c) Not result in adverse noise and vibration taking into account surrounding uses nor result in adverse impacts upon air quality from odour, fumes, smoke, dust and other sources;”

¹⁰ Central Lincolnshire Local Plan – Adopted April 2023

South East Lincolnshire Local Plan 2011 – 2036

- 1.1.25 The South East Lincolnshire Local Plan 2011 – 2036¹¹ was adopted in March 2019 to provide policies and proposals to assist in guiding development and land use change throughout the district. Air quality is covered under Policy 30, as follows:

“Policy 30: Pollution Development proposals will not be permitted where, taking account of any proposed mitigation measures, they would lead to unacceptable adverse impacts upon:

...4. air quality, including fumes and odour; ...

Planning applications, except for development within the curtilage of a dwelling house as specified within Schedule 2, Part 1 of The Town and Country Planning (General Permitted Development)(England) Order 2015, or successor statutory instrument, must include an assessment of:

9. impact on the proposed development from poor air quality from identified sources;

10. impact on air quality from the proposed development; and

11. impact on amenity from existing uses.

Suitable mitigation measures will be provided, if required. Proposals will be refused if impacts cannot be suitably mitigated or avoided.”

Guidance

Planning Practice Guidance

- 1.1.26 On 6th March 2014, the Department for Communities and Local Government (DCLG) launched the Planning Practice Guidance web-based resource to provide guidance on the approach to air quality. The guidance has most recently been updated in November 2019.
- 1.1.27 The Planning Practice Guidance states that *“Whether air quality is relevant to a planning decision will depend on the proposed development and its location. Concerns could arise if the development is likely to have an adverse effect on air quality in areas where it is already known to be poor, particularly if it could affect the implementation of air quality strategies and action plans and/or breach legal obligations (including those relating to the conservation of habitats and species). Air quality may also be a material consideration if the proposed development would be particularly sensitive to poor air quality in its vicinity”.*
- 1.1.28 Where a proposed development is anticipated to give rise to concerns about air quality an appropriate assessment needs to be carried out. Where the assessment concludes that the proposed development (including mitigation) will not lead to an unacceptable risk from air pollution, prevent sustained compliance with national objectives or fail to comply with the requirements of the Habitats Regulations, then the local authority should proceed to decision with appropriate planning conditions and/or obligations.

¹¹ South Lincolnshire Local Plan 2011 – 2036

Guidance on the Assessment of Dust from Demolition and Construction

- 1.1.29 In 2014, and most recently updated in 2024, the IAQM released guidance to allow for the assessment of impacts associated with dust and PM₁₀ releases, during the construction phase of a development. This guidance allows the potential dust soiling, human health and ecological effects associated with demolition, earthworks, construction and the trackout of dirt and mud onto the public highway, to be assessed at sensitive receptor locations. The methodology for the assessment is detailed in Appendix 16.2.

Land-Use Planning and Development Control: Planning for Air Quality (2017)

- 1.1.30 Guidance has been prepared by EPUK and the IAQM with relation to the assessment of the air quality impacts of proposed developments and their significance. The guidance takes into account the existing baseline air quality at sensitive receptor locations, as well as the change expected as a result of emissions from development generated vehicles. The focus of the guidance is on human receptors. Further details are provided in Appendix 16.2.

Natural England's approach to advising competent authorities on the assessment of road traffic emissions under the Habitat's Regulations (June 2018)

- 1.1.31 In 2018 Natural England issued an internal operational Guidance Note, which describes how Natural England advises competent authorities and others on the assessment of plans and projects (as required by the Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations')) likely to generate road traffic emissions to air which are capable of affecting European Sites. The guidance was made public to clarify Natural England's approach for other stakeholders and is therefore considered relevant to this assessment.
- 1.1.32 Although the guidance does not specifically cover nationally significant sites such as Sites of Special Scientific Interest (SSSIs), which are covered by a different regulatory framework, it does state that the general principles for air quality assessment outlined here for European Sites are likely to be equally relevant for this and other designations.

A guide to the assessment of air quality impacts on designated nature conservation sites (May 2020)

- 1.1.33 In 2020 the IAQM issued a guidance document to assist its members in the assessment of the air quality impacts of development on designated nature conservation sites and sets out the assessment criteria and methodologies to be employed in such assessments. The guidance is applicable to the assessment of European, national and local designated sites where such assessments are required by the decision maker. This guidance, therefore, applies to the assessment of Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) (known as European sites) and Ramsar sites which are covered by the Habitats Regulations. It also applies to Sites of Special Scientific Interest (SSSIs), Areas of Special Scientific Interest (ASSIs),

National Nature Reserves (NNRs), local nature reserves (LNRs), local wildlife sites (LWSs) and areas of ancient woodland (AW).