

Response to Consultation on Air Quality Action Plan for Kingston upon Thames (the “Kingston AQAP”)

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It is not so much what is in the Kingston AQAP than what is missing that shows it to be a completely inadequate document that does not respond to the GLA’s Air Quality Action Matrix (the “AQAM”) and ignores the massive scale of development that will be taking place in concentrated areas across the Borough over the next 20 years.

This document does not appear to be legally compliant with the policies relating to air quality in the London Plan 2016 or the new London Plan 2019 (the “London Plan”) or with the national policies laid down in the National Planning Policy Framework 2019 (the “NPPF 2019”). It also does not meet the requirements, directions and priorities of the Mayor of the AQAM. I should stress that the Council has only provided a link to a draft AQAM which is not a satisfactory basis for analysis or consultation.

The AQAP does not provide evidence as required by legislation that it will help the council to meet legal requirements for air quality in the Borough. The Borough is already an Air Quality Management Area and is now facing large-scale demolition and construction activities in concentrated areas with existing communities over the next 20 years.

There are no actions for the need to enforce Air Quality Neutral in breach of the new London Plan Air Quality Policies **SI 1 B2** and an area that is considered to be a high priority in the Kingston AQAM. The lack of action breaches NPPF 2019 170 d) and e) and policy 181 as well as London Plan 2019 Policy **SI 1 1 a and b**. These are serious breaches which imply that Kingston Council is not committed to its legal obligations of preventing new and existing development from contributing to an unacceptable risk of people being “adversely affected by unacceptable levels of air pollution”, of “improving local environmental conditions... such as air quality” (NPPF 2019 181) and preventing “a further deterioration of exiting poor air quality or delaying the date at which compliance will be achieved in areas that are currently in exceedance of legal limits” London Plan SI1a and SI1b.

I draw your attention to the landmark and recent ruling at Southwark Coroner’s Court that pollution was one of the causes of a child’s death in 2013.

A. Comments on Actions and Priorities given in AQAP

Action 2.2 – Compliance with the Mayor of London’s Control of Emissions during Construction and Demolition SPG (“CECD”)

The magnitude of this action should be HIGH given the scale of development that the Council has planned to occur in areas across the Borough. The action is too vague. How will the council “ensure” that conditions are applied? This requires great will, resources, time, focus and experience. As the Mayor notes in the AQAM, councils have a “lack of statutory powers” to enforce conditions based on the CECD which does not generally “require” developers or councils to take any specific actions, rather laying out what councils “should” do. It is therefore imperative that Kingston Council lays out clearly the specific actions it intends to take in order to respect the CECD guidance and to apply it as a material consideration in the context of major demolition and construction works about to take place across the Borough

Action 2.5 - Create planning regulations that ensure new developments deliver clean air for communities

This is not a straightforward action and is made extremely complicated by the fact that huge demolition and construction projects are happening simultaneously in concentrated areas across the borough. This will also have a HIGH impact on people affected. It is impossible to see how it can be ranked as LOW. Demolition and construction projects will each be creating air pollution during both development phases for up to 15 or 20 years, which is a prolonged period during which people's health will be adversely affected by NOx and particulate pollution. Even when operating, there is no guarantee that the new developments will be Air Quality Neutral ("AQN") – the requirement is for the planning proposal to be AQN but there is no test for whether the development is compliant once inhabited, nor the effects of the development on pollution as a result of changes in lifestyle of new residents eg increased light goods vehicle traffic for deliveries and pollution from gas boilers and other heating methods.

B. Comments on "Commitments to the GLA"

There are no actions given for any of these commitments, and the magnitude of air quality benefits from (unstated) actions for many important commitments is given as "*N/A - Benefits potentially great but not quantifiable*". This statement is not justified in any way. These commitments all have HIGH benefits in the context of Kingston's massive development plans.

Many of the commitments listed are considered day-to-day activities by the Mayor of London in the AQAP in which the council should already be actively engaged to manage their impacts.

These things all make the Kingston AQAM unfit for purpose.

Given the huge development programme coming forward and the massive increase in borough population, the following "commitments" to the GLA need re-prioritising and specific actions need to be outlined for each one relating to how the Council will ensure that they do not lead to a worsening of air pollution and indeed contribute to an improvement in air quality.

i. Ensure emissions from construction are minimised and Air Quality Neutral

These are given as straightforward to manage. They are anything but straightforward given the lack of legal maximum levels for pollution generated on construction and demolition sites and related to development activity. Much compliance by developers is done on a self-certification basis and even boroughs like Richmond who have dedicated officers to try to audit compliance with something that is not mandatory are having trouble auditing as many sites as they wish and are meeting with defiance from developers.

The lack of any actions to ensure developments are Air Quality Neutral as required by the AQAM also breach Publication London Plan (the "Plan") Policy **SI1 B 2A** which states that "all development proposals must be at least Air Quality Neutral" and Policy **SI1 B 2E** which states that "Development proposals should ensure that where emissions need to be reduced to meet the requirements of Air Quality Neutral or to make the impact of development on local air quality acceptable, this is done on-site".

The lack of any stated actions to manage emissions from construction in the context of development plans as laid out in Publication London Plan (the “London Plan”) policies H1 Table 4.1, SD1 table 2.1 and Policy H2 Table 4.2 is an omission that contravenes Part 170 e of the National Planning Policy Framework 2019 which states that planning decisions should contribute to and enhance the natural 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, taking into account relevant information such as river basin management plans;”

It also contravenes policy 181 of the NPPF 2019 which states that:

“planning decisions should sustain and contribute towards compliance with relevant limit values...for pollutants, taking in to account AQMAs and cumulative impacts from individual sites in local areas”

ii. All actions related to the Director of Public Health

There are no actions here despite FIVE commitments that the Mayor of London has stated are of “critical” importance in the AQAM given that scientific reviews have shown how air pollution affects public health”.

Actions need to be listed in all areas in order to ensure that the Director of Public Health has real accountability for delivery on air quality. It is not acceptable to simply state that the action needed is straightforward.

Other commitments that require specific actions and are which would have HIGH contribution to improving air quality, but are rated N/A include:

- iii. Enforcing CHP
- iv. Green Space
- v. Head of Transport briefed on public health duties etc

Complete Omissions from Action Plan

i. Non-Road Mobile Machinery

This is a major source of pollution and requires high priority and specific action to manage what will be high levels of pollution generated from development sites and also vehicles accessing such sites,

The AQAM states that pollution from this source will increase as a proportion of total pollution in London. It will also soar in Kingston in absolute terms as construction and demolition activities rocket. It is a high priority of the Mayor of London who states clearly the actions he expects boroughs to take to manage future emissions from this source.

The lack of action in this area breaches the NPPF 2019 and Publication London Plan policies mentioned above. Effective action in this area will have a significant impact on air quality.

ii. Monitoring

Why is there no mention of how Kingston Council will monitor air quality and manage its response to it? The Mayor of London in the AQAM recommends that local authorities work with developers to monitor and control fugitive dust emissions. Where is any action to reflect this direction? Effective action in this area will have a significant impact on air quality.

The lack of action in this area breaches the NPPF 2019 and Publication London Plan policies mentioned above.