

Mayor and Cabinet			
Title	Designation of an Additional Air Quality Management Area		
Key decision	Yes	Item no	
Wards	Crofton Park, Forest Hill and Perry Vale		
Contributors	Executive Director, Customer Services		
Class	Part 1	10 April 2013	

1. Purpose and Summary

- 1.1. The purpose of this report is to provide information on the local authority's statutory requirements with regards to air quality, the rationale for designating a new AQMA and the processes involved in the designation.
- 1.2. This report sets out proposals for designating an additional Air Quality Management Area (AQMA).
- 1.3. The AQMA will cover Crofton Park ward together with parts of Forest Hill and a small part of Perry Vale. (see Appendix A)
- 1.4. The Air Quality Management Area is needed because air pollution above the thresholds set by government have been observed; there are people exposed to the air pollution and the area has not been declared an AQMA previously.
- 1.5. The pollutant that fails to meet the government targets is nitrogen dioxide (NO₂)
- 1.6. The correct process of review and assessment of air quality within the borough of Lewisham has been followed. This identified that concentrations of NO₂ exceed the levels set out in the Air Quality Regulations. It is a statutory obligation on the local authority to now declare these areas as an AQMA. However, it is proposed that the area designated be wider to respond to public opinion and to avoid pushing air quality problems into adjoining areas.
- 1.7. The declaration of the AQMA will require an Order to be made under S.83 (1) of the Environment Act 1995. This is a legal and an administrative requirement and will need to be advertised in the appropriate publications for which there is a small fee.
- 1.8. The effect of the proposed Order is to declare an AQMA with specific boundaries.

- 1.9. Once declared, a Further Assessment of the air quality in the area may be required and an Air Quality Action Plan (AQAP) will need to be adopted. (Guidance on the declaration process and the making of the Order is available on request from the Senior Air Quality Officer.)

2. Recommendation

The Mayor is recommended to:

- 2.1 Agree to the making of an Order to designate a new Air Quality Management Area for NO₂ for the area north of the A205 not already covered by previous designations (see Appendix A).

3. Policy Context

- 3.1. European legislation (Directive 2008/50/EC) details the pollutants that occur in ambient air which have the potential to impact on human health. The Directive sets concentration values for each pollutant and a date by which the limit values should be achieved. Failure to meet the limit values by the deadlines can result in fines being levied against an EU member state by the European Commission.
- 3.2. Local authorities in the UK have a statutory duty to manage local air quality under Part IV of the Environment Act 1995. Following this Act, a National Air Quality Strategy was published in 1997 (reviewed in 2007) and the Air Quality (England) Regulations 2000 set objectives for several pollutants including NO₂. Although the dates for compliance with limit values in the Air Quality Directive have already passed, EU Member states are able to apply for an extension to the deadlines, which, for NO₂, is January 2015.
- 3.3. The Mayor of London has a legal responsibility to prepare and keep under review an Air Quality Strategy for the Greater London area. The most recent strategy document "Clearing the Air" was published in December 2010. This proposal supports the aims and objectives contained in the Mayor's Air Quality Strategy.
- 3.4. The action supports the Clean, Green and Liveable priority within the Council's Corporate Strategy 2008-2011 and its Sustainable Community Strategy 2008-2020.

4. Background

- 4.1. The system of Local Air Quality Management (LAQM) was introduced by the Environment Act 1995 and requires each local authority to periodically "review and assess" the air quality within its borough. The Air Quality Regulations set objectives for each of the pollutants that occur in air and cause ill-health. These include, among others, the following:

Pollutant	Air Quality Objective		Date to be achieved by
	Concentration	Measured as	
Nitrogen dioxide	200 µg/m ³ not to be exceeded more than 18 times a year	1 hour mean	31 Dec 2005
	40 µg/m ³	Annual mean	31 Dec 2005
Particles (PM ₁₀)	50 µg/m ³ not to be exceeded more than 35 times a year	24 hour mean	31 Dec 2004
	40 µg/m ³	Annual mean	31 Dec 2004

- 4.2. Each local authority has to assess the levels of each air pollutant in the Regulations within its area and compare the levels to the Air Quality Objectives. If the level is below the objective, there is compliance. If the level is above, there is non-compliance and this is called an 'exceedence'.
- 4.3. Under Section 83 (1) of the Environment Act 1995, where it is identified that an objective will not be met, *and* members of the public are exposed to the elevated levels of pollutants, the local authority is required to declare an AQMA for the specific pollutants that are exceeding.
- 4.4. The Air Quality Review and Assessment process carried out within the borough of Lewisham uses monitoring data from several air quality monitoring sites. The initial three-stage process identified that the National Air Quality Objectives for both Particles (PM₁₀) and NO₂ were not being met within the borough. Consequently, five AQMAs were designated in 2001. These are shown in the map in Appendix B.
- 4.5. In 2008, the air quality monitoring network was extended within the borough to include a series of diffusion tubes that measure NO₂ at different locations.
- 4.6. In the Updating and Screening Assessment 2009, monitoring data from the diffusion tubes indicated that exceedences of the National Air Quality Objectives for NO₂ were occurring outside of the existing AQMAs. In addition, the DEFRA Technical Guidance (TG.09) changed the criteria for roads and junctions that need to be considered. As a result, some additional roads/junctions needed to be considered further. Subsequently, a Detailed Assessment (available on request from the Senior Air Quality Officer) was conducted which used detailed modelling to determine the extent of any exceedences. The conclusion of the Detailed Assessment was that exceedences of both the annual and hourly objectives for NO₂ are occurring in areas either side of Brockley Rise (B218), Stondon Park, Brockley Road and Honor Oak Park (B238).
- 4.7. As the National Air Quality Objectives for NO₂ are not being met, the local authority is statutorily obliged to declare an AQMA that, as a minimum, covers the areas where the exceedences are occurring. Having identified exceedences, a local authority can not refuse to resolve to make an Order.

However, a local authority has the discretion to determine the exact boundaries of the AQMA and the guidance recognises that this requires an element of judgement based on the expertise of local officers.

- 4.8. Where an AQMA is declared, the local authority is then required to develop an Air Quality Action Plan detailing the measures that will be employed to help meet the air quality objectives within that area.
- 4.9. The main source of the exceedences identified in the Detailed Assessment is motor vehicles, and associated congestion, along the B218 and B238. Although emissions from motor vehicles can result in elevated concentrations of both NO₂ and PM₁₀, it is only the objectives for NO₂ which are being exceeded. The 2009 assessment concluded that exceedences of the PM₁₀ objective were *not* occurring at any location within the borough. Unlike the previous AQMAs, the new AQMA will be declared for NO₂ only.
- 4.10. As the monitoring and modelled data suggest that both the annual and the hourly average objectives for NO₂ are in danger of being breached where there is relevant public exposure, the Order would need to declare the AQMA for both the objectives for NO₂.
- 4.11. A public consultation was carried out from 3 September - 12 October 2012 on the extent of the area to be designated. Three options were proposed (Appendix C); Option 1 being the areas predicted to exceed the NO₂ objective only; Option 2 being the areas predicted to exceed with an additional 25m buffer zone and Option 3 was wider covering the geographical area north of the South Circular not already covered by an existing AQMA. Analysis of the responses is detailed and has not been included in this report but it can be viewed on the [Council website](#). A total of 57 responses were received, of which, 41 (approximately 70%) supported Option 3. Consequently, this is the area that is proposed to be designated as AQMA 6. As well as receiving majority support from respondents, advantages of the wider designation include delivering health and air quality benefits across a broader area and a reduced likelihood that the air pollution problems will simply be shifted elsewhere.
- 4.12. Schedule 11 of the Environment Act 1995 states that any Order made should be made available for inspection by the public at all reasonable times. However, guidance states that good practice would be to notify the Secretary of State, the Environment Agency and any relevant local businesses and environmental pressure groups. Therefore, we will aim to ensure that good practice is followed by advising relevant parties.
- 4.13. Once the AQMA is declared, a Further Assessment may need to be carried out. The government is currently consulting on the repeal of this requirement so it is possible that this will no longer be required. However, it will be necessary to draw up an Air Quality Action Plan. This will detail the measures that the Council intends to support and implement in order to improve air quality in this area. An Air Quality Action Plan was prepared and approved for the existing 5 AQMAs in January 2008. Relevant measures from this Action

Plan will be employed in the newly designated AQMA together with any measures identified as being specific to the particular problems experienced in this area.

5. Financial implications

- 5.1. The costs of designating an AQMA are limited to officer time, administration costs and the cost of the necessary advertising of the Order and will be contained within existing service budgets.
- 5.2. Once declared, the local authority will be required to prepare an Air Quality Action Plan. Costs associated with implementing measures arising from the plan will be considered as a part of the Council's normal budget process.

6. Legal implications

- 6.1 Section 82 of the Environment Act 1995 provides that every local authority is under a duty to review the air quality within its area, both at the present time and the likely future air quality. Section 83 of the 1995 Act requires local authorities to formally designate an air quality management area (AQMA) where air quality objectives are not being achieved, or are not likely to be achieved within the relevant period, as set out in the Air Quality (England) Regulations 2000.
- 6.2 Once an area has been identified, (as an AQMA,) s. 84(1) of the 1995 Act requires the local authority to carry out a further assessment of existing and likely future air quality within 12 months.
- 6.3 Following designation of an AQMA, an air quality "Action Plan" should be completed between 12-18 months following the date of designation. Once a local authority has produced its final "Action Plan", a first Action Plan Progress Report must be submitted by the end of the following April.
- 6.4 Local Authorities are required to submit all relevant air quality reports (pursuant to Schedule 11 of the Environment Act 1995) to Defra and other statutory consultees all neighbouring authorities and including the Mayor of London where appropriate by 30th April in a reporting year.
- 6.5 The Equality Act 2010 (the Act) introduced a new public sector equality duty (the equality duty or the duty). It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 6.6 In summary, the Council must, in the exercise of its functions, have due regard to the need to:
 - eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.

- advance equality of opportunity between people who share a protected characteristic and those who do not.
- foster good relations between people who share a protected characteristic and those who do not.

6.7 The duty continues to be a “have regard duty”, and the weight to be attached to it is a matter for the Mayor, bearing in mind the issues of relevance and proportionality. It is not an absolute requirement to eliminate unlawful discrimination, advance equality of opportunity or foster good relations.

6.8 The Equality and Human Rights Commission has recently issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled “Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice”. The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at: <http://www.equalityhumanrights.com/legal-and-policy/equality-act/equality-act-codes-of-practice-and-technical-guidance/>

6.9 The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:

1. The essential guide to the public sector equality duty
2. Meeting the equality duty in policy and decision-making
3. Engagement and the equality duty
4. Equality objectives and the equality duty
5. Equality information and the equality duty

6.10 The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at: <http://www.equalityhumanrights.com/advice-and-guidance/public-sector-equality-duty/guidance-on-the-equality-duty/>

7. Crime and disorder implications

7.1. There are no crime and disorder implications associated with this report.

8. Equalities implications

- 8.1. It is proposed that the Order will designate an AQMA to cover most of Crofton Park ward, the northern section of Forest Hill and a small corner of Perry Vale as outlined in the map attached at Appendix A. This will extend the area of the borough covered by an AQMA to all areas north of the A205 South Circular together with areas adjacent to certain main roads in the south.
- 8.2. Poor air quality is often associated with areas of deprivation and consequently tends to disproportionately affect the health of the most disadvantaged. There is no data on the specific households affected by the exceedences of NO₂ within the new AQMA but data from the Index of Multiple Deprivation suggests that the area to be designated, as a whole, is not as deprived as many others within the borough.
- 8.3. The Order will be applied equally across the areas designated as AQMA 6. Measures aimed at tackling poor air quality tend to have wider benefits and can improve air quality throughout the borough. Therefore, there are no equalities implications associated with this report.

9. Environmental implications

- 9.1. The authorisation to grant the Order will allow the local authority to fulfil its statutory obligations under the Environment Act 1995 which are aimed at improving air quality.
- 9.2. Designating an AQMA and preparing an Air Quality Action Plan will have positive benefits for the environment. A synergy exists between actions aimed at improving the quality of the air we breathe locally and tackling carbon emissions and improving public health and well being.

10. Conclusion

- 10.1. Authorisation is sought to proceed with the making of an Order to designate a new AQMA that covers the area shaded green in Appendix A.
- 10.2. Having identified exceedences of the National Air Quality Objectives for NO₂, the local authority is statutorily obliged to designate an AQMA to cover these areas as a minimum.
- 10.3. Following public consultation, the proposal is to designate an AQMA that will cover the areas of Crofton Park, Forest Hill and Perry Vale as outlined on the map in Appendix A.

11. Background documents and originator

- 11.1 There are no background documents to this report.
- 11.2 If you would like further information about this report please contact Dave Trew, Senior Air Quality Officer on 020 8314 9783

Appendix A – Proposed new AQMA in relation to existing AQMAs

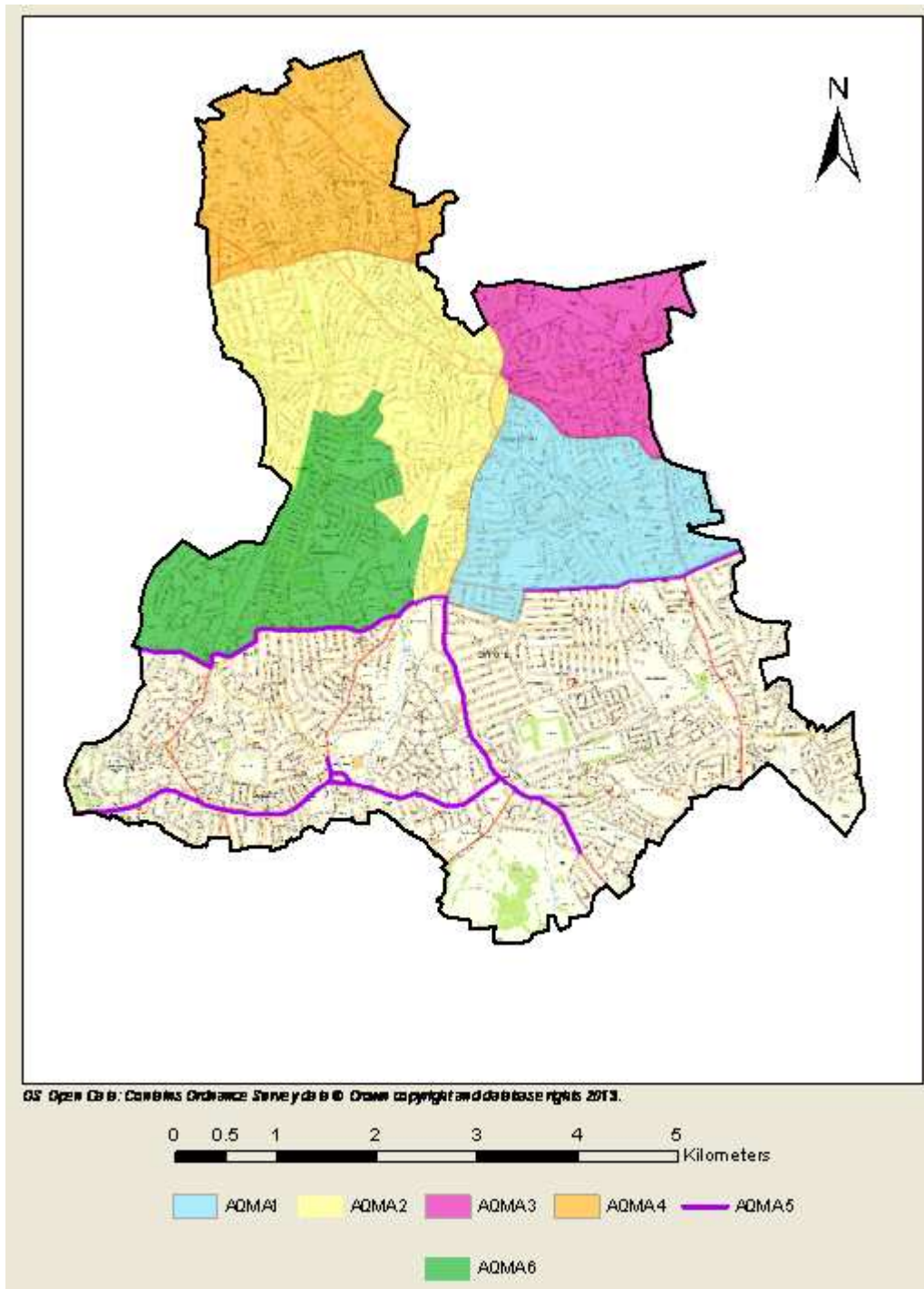
Appendix B – Map showing existing Air Quality Management Areas

Appendix C – Extract of consultation document showing 3 proposed options

- Detailed Assessment 2011 - available on request from the Senior Air Quality Officer.
- NSCA Guidance on Air Quality Management Areas - available on request from the Senior Air Quality Officer.

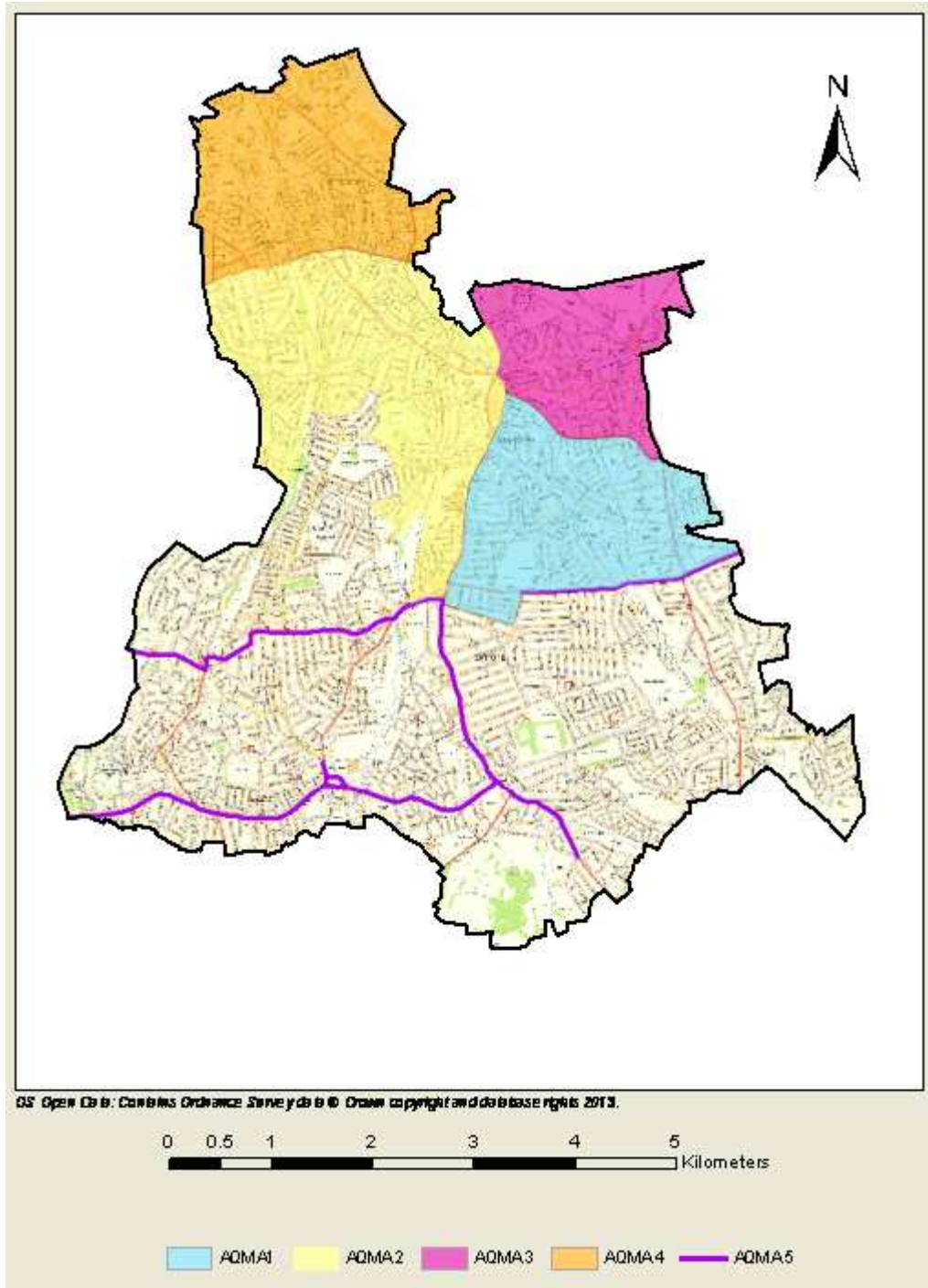
Appendix A

Map of London Borough of Lewisham showing proposed new AQMA (green) in relation to existing AQMAs



Appendix B

Map of London Borough of Lewisham showing existing Air Quality Management Areas



Appendix C

Extract from Consultation Factsheet Showing the 3 Proposed Options for AQMA 6

Option 1 (Pink shading): the minimum area covering just the roads predicted to exceed the national target for nitrogen dioxide ($40\mu\text{g}/\text{m}^3$ as an annual average).

Option 2 (Pink + Yellow shading): The minimum area plus a 25 metre 'buffer' zone to allow for errors in the predictions.

Option 3 (Pink + Yellow + Green shading): The whole area north of the south circular (A205) that does not already lie within an Air Quality Management Area.

You can make your choice here and put this sheet into the box at Crofton Park Library or go to the Council's website (www.lewisham.gov.uk/consult). You will also find additional information there that you may find helpful.

Option 1	
Option 2	
Option 3	

