

Report to: **Executive**

Date: **7 April 2016**

Title: **Amendment to the Air Quality Management Area for Totnes**

Portfolio Area: **Customer First: Cllr Bastone**

Wards Affected: **Dartington and Staverton, Totnes, Marldon and Littlehempston**

Relevant Scrutiny Committee: **N/A**

Urgent Decision: **Y** Approval and clearance obtained: **Y**

Date next steps can be taken: Referral to full Council on 19th May with recommendation to determine the air quality management area for Totnes

Author: **James Kershaw** Role: **Senior Specialist Environmental Health**

Contact: **01803 861287 james.kershaw@swdevon.gov.uk**

RECOMMENDATIONS

- 1. That the Executive consider the two options available for amending the Air Quality Management Area (AQMA) for Totnes.**
- 2. That having considered the two options that the Executive recommend to Full Council that the AQMA order made by the Council on 28 May 2009, be amended to reflect the preferred option.**

1. Executive summary

- 1) Air Quality monitoring is a statutory requirement of the Council, it is part of the public health and wellbeing priorities of the Council.

- 2) The Council resolved to make an Order under the Environment Act 1995 to declare an Air Quality Management Area covering an area of Totnes bounding the A385, (as shown in Appendix 1) on 25 June 2009. The declaration was in relation to regular exceedances of Nitrogen Dioxide in the area of Bridgetown, therefore this triggered the legal duty to declare an Air Quality Management Area.
- 3) The Environment Act 1995 requires the local authority to monitor the air quality in its area. Monitoring of oxides of Nitrogen (NOx) at True Street junction on the A385 between Totnes and Torbay, has shown that the limit set under the legislation is being regularly breached.
- 4) The Department for Food and Rural Affairs (DEFRA) required that the Local Authority should produce an Updating and Screening Assessment (USA) on an Annual basis, the 2015 USA received comments from DEFRA stating that due to the regular breaches of the national limit there is now a need to declare an AQMA to cover the True Street junction.
- 5) By declaring an AQMA a Council must consider ways of mitigating the air quality impact to the AQMA, including controls on developments which may impact on an AQMA, this is considered through an Air Quality Action Plan devised in conjunction with the highway authority (Devon County Council).
- 6) In relation to the existing AQMA in Totnes, there has been limited progress taken by Devon County Council on implementing an adequate plan for mitigating impacts on the AQMA.
- 7) In relation to monitoring of the air quality in the rest of the current designated AQMA, there is only a short stretch of the area which regularly measures above the national limit. However the AQMA was originally set on the basis that each section of the A385 through Totnes has an impact on the Bridgetown section where the measured levels are above the national limit.
- 8) The Council will now need to decide whether to amend the current Air Quality Management Area boundary to just include True Street Junction, or whether to reduce the Western boundary of the area to only include the locations where the exceedances occur.
- 9) The next stage of the air quality management process is the production of an air quality action plan it is fundamental that we have the support of Devon County in producing this plan. The Council should seek confirmation from Devon County Council that they will resource this appropriately.

2. Background

- 1) The Environment Act 1995 lays down a number of statutory duties for Local Authorities regarding the management of air quality in their districts. Under Section 82 of this Act, local authorities must regularly review and assess air quality according to specified criteria. If air quality is found to exceed health-

based National Air Quality Objectives a local authority must designate the area affected as an Air Quality Management Area (AQMA) (section 83 of the Environment Act).

- 2) Following designation of an AQMA, a local authority is required, under section 84(1) of the Act, to undertake a further assessment of air quality in that area so as to evaluate any options that may be available to improve air quality. The further assessment involves a detailed examination of the problem and identification of the specific sources (e.g. types of vehicle) that contribute the most pollution.
- 3) In May 2009 the Head of Environmental Health brought before the executive a report recommending that *“an Order be made, under the Environment Act 1995 Part IV Section 83(1), to designate the areas hatched green on the attached plans...”*. This related to a section of the A385 running through the Totnes and Dartington wards (see map in Appendix 1). This Order was duly made following decision at Full Council on the 25th June 2009.
- 4) Further monitoring of the area surrounding the current Air Quality Management Area was undertaken, partially triggered by information received as part of a planning application.
- 5) This showed that the levels of Nitrogen Oxides (NOx) in this area were regularly above the annual mean objective level set by The Environment Act 1995 of 40 μgm^{-3} . μgm^{-3} is the scientific description of the quantity of a pollutant in any given volume of air:

Table 1: Measured levels of

Year	Annual mean, bias-adjusted results are (in μgm^{-3})
2013	51.3
2014	56.3

- 6) 40 μgm^{-3} of Nitrogen Dioxide is the legal limit set by the Environment Act 1995 and is set in order to protect health of residents living in properties in areas above this limit. Elevated NO₂ levels are generally due to exhaust emissions from vehicles. Nitrogen Dioxide is known to cause irritation of the respiratory tract and therefore has a greater impact on those already suffering from respiratory diseases such as asthma, emphysema etc.
- 7) These results were reported to DEFRA as part of the Council's updating and screening assessment in 2015, and they have subsequently commented that based on these figures the Council should now be considering declaring this area within an AQMA.
- 8) Once an AQMA is declared the Council is required to produce an air quality action plan (AQAP) in conjunction with the highway authority, with

the aim of reducing the levels of pollutants to within an acceptable level and manage the area so that the air quality levels do not get worse.

Whilst there is an existing AQAP for the Totnes area, there has been limited improvement in the air quality levels at Bridgetown hill. However monitoring along the rest of the AQMA has not demonstrated that the levels of NOx are above the objective level.

However the reason for setting the AQMA boundary as was set in 2009, was on the basis that each section of road has an impact on the traffic flows and in turn causes the elevated levels at Bridgetown Terrace.

- 9) Once an AQMA and AQAP is adopted they hold weight when considering planning applications which might individually or collectively with other applications have an impact on the AQMA.

Air quality can be a reason for refusal for planning permission, even on sites that have been allocated in the local plan if the developer cannot provide sufficient contribution to offset their application's impact.

Clearly therefore having a larger AQMA does have an impact on the potential for development in Totnes, however so far it has not been an overriding concern to applications that have come forward since the designation of AQMA.

Conversely it may be felt that having control over development and its impact on an AQMA is a benefit when seeking money for resolutions to the air quality problems in Totnes.

- 10) An initial meeting was held with Devon County Council's highways team in February 2016, it was determined during this meeting that there are limited options for improvement to the road network and therefore the focus of the air quality action plan will need to be around minimising the emissions of vehicles travelling through the AQMA. Various pieces of work were discussed, and there are various planning policies that could be implemented as part of the future local plan that would support this aim.

3. Outcomes/outputs

- 1) In DEFRA's response to the USA for 2015 they require that we consider designating the True Street junction by March 2016. Whilst this report has been brought forward in time, it is recognised that a decision cannot be reached in time for DEFRA's deadline, they are however satisfied that we are in the process of re-designating the AQMA in line with their advice to include the True Street junction.

4. Options available and consideration of risk

- 1) There are two options available to the Council, we could:

- Extend the Eastern boundary of the AQMA to include the True Street junction whilst retaining the Western Boundary (preferred).
 - Extend the Eastern boundary of the AQMA to include True Street junction whilst shrinking the Western boundary to the bottom of Bridgetown Terrace.
- 2) Option 1, has the continuing benefit of providing a much larger area meaning that the AQAP can include more potential proposals and have a greater control over future developments.

This is felt to be the preferred option on the basis that funding can be realised from future development with the aim of offsetting and improving air quality within the AQMA.

- 3) Option 2, has the benefit of refocusing the AQMA to only include the area where the national objective limits are breached, and would have less constraint on future development within the Totnes, Dartington and Berry Pomeroy wards.
- 4) Amendment of the AQMAs has the potential to cause concern for homeowners who may fear that their property value will be affected. It is important to note that AQMAs have been declared all over the country and extensively in Devon.

In order to allay any concerns it is proposed to implement a communication strategy aimed at residents and to invite representatives to be involved in the action planning process. The AQMAs are effectively vehicles to deliver improvements to an area which will directly benefit residents.

It will however be essential to obtain the support of Devon County Council when drafting any air quality action plan, and it must be noted that there has been some difficulty in the past in getting them to engage with this process.

5. Proposed Way Forward

- 1) That the Executive recommend to full Council that the air quality order for Totnes be amended, by extending the Eastern boundary to incorporate True Street junction but the Western boundary remain as current.
- 2) That an air quality action plan be produced initially focusing on the area around Bridgetown Terrace.

6. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance		<p>The UK government has a duty imposed on them by the European Union directive 96/62/EC and 99/30/EC.</p> <p>The UK government were successfully sued by pressure group Climate Earth in April 2015, due to their inaction in resolving air quality problems. The Localism Act 2013 allows the UK government to pass any fines received in European Courts to local authorities if the fine is due to the failure of an authority.</p> <p>The Council has a legal duty under the Environment Act 1995 to review and assess air quality in their area.</p> <p>The objective limits that the Council should be achieving are set in the Air Quality Regulations 2000, and the Air Quality (England) (Amendment) Regulations 2002.</p>
Financial		<p>There is no immediate financial implications to the Council due to the amendment to the air quality management area.</p> <p>Should the Council fail in its duty to manage the air quality problems in its area then there is a risk that any future fines received by the UK government could be passed down to the local authority.</p>
Risk		
Comprehensive Impact Assessment Implications		
Equality and Diversity		No implications.
Safeguarding		No implications
Community Safety, Crime and Disorder		No implications
Health, Safety and Wellbeing		Having an active air quality action plan for Totnes which is being implemented and improving air quality

		will have a positive impact on the health and wellbeing of the residents in the area of elevated airborne pollutants.
Other implications		

Supporting Information

Appendices:

Map of Totnes Air Quality Management Area adopted 29 June 2009

Map showing proposed extension of the Totnes AQMA to include True Street Junction.

Map showing redrawing the AQMA to only cover Bridgetown Terrace to True Street Junction.

Background Papers:

None