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Dudley MBC Development Control and Air Quality Policy

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Air Quality and Development Control Policy

Statement of Purpose

The purpose of this policy is to provide information for officers of Dudley Council to advise developers and to prepare comments on planning application consultations with respect to air quality issues. With the use of this guidance a coordinated approach to air quality can be achieved for all planning applications. By implementing this guidance officers will be able to help control exposure to poor air quality and so minimise the adverse affect of air quality on health & the environment.

General Introduction

Air Quality is a “material consideration” in **all** planning applications. However the importance placed upon it, in relation to other material considerations depends upon the proposed development and surrounding environment. The declaration of an Air Quality Management Area (AQMA) does not mean that there needs to be a ban on development in and around that area. It does mean that greater consideration needs to be given to proposals for the area. Where a Borough AQMA has been declared, like in Dudley, special consideration must be given to specific areas of poor air quality within the AQMA to prevent development leading to additional relevant exposure or the worsening of air quality.

Relevant National guidance

PPS23: Planning & Pollution Control (2004)
PPG6: Town Centres & Retail Developments (1996)
PPG12: Development Plans (2000)
PPG13: Transport
Planning Obligations Circular 05/05
Planning Conditions Circular 11/95
Policy Guidance LAQM.PG(03) DEFRA
Development Control: Planning for Air Quality, NSCA (2006)

Relevant Local policies

Dudley MBC Local Development Framework

EP5: Air Quality
DD4]: Development in Residential Areas
DD5: Development in Industrial Areas
DD6: Access and Transport Infrastructure
DD7: Planning Obligations
AM1: An Integrated, Safe, Sustainable and Accessible Transport Policy
AM2: Public Transport Corridors
AM4: Road Improvements
AM5: Bus Provision
AM6: The Midland Metro
AM7: Passenger Rail
AM8: Freight
AM9: Interchanges
AM10: Hackney Carriages
AM11: Cycling

AM12: Pedestrians
AM14: Parking
AM16: Travel Plans

Air quality objectives set for local control

Nitrogen Dioxide
Fine Particulate Matter (PM₁₀)
Sulphur Dioxide
Carbon Monoxide
Benzene
1,3 Butadiene
Lead

Air quality objectives set for National Control

Ozone
Poly-Aromatic Hydrocarbons (PAH)

Air quality objectives for the protection of vegetation & ecosystems

Nitrogen Oxides
Sulphur Oxides

Within Dudley Metropolitan Borough only nitrogen dioxide currently breaches the national objectives. In response to this matter two AQMA`s were declared for Nitrogen Dioxide, one in Brierley Hill and one in Sedgley. In September 2007, the Cabinet agreed to declare a single whole Borough AQMA for Nitrogen Dioxide in Dudley MB and the Order was sealed in December 2007. (see Appendix 1)

Officers also need to have regard for AQMA`s in adjacent Local Authorities, particularly if there is an AQMA immediately adjacent to the border of Dudley MB. For further information on the air quality objectives refer to the Defra web site; <http://www.defra.gov.uk>

Planning Application types

Officers should be aware of the four types of planning application for land use:

1. **Outline**, to establish the principle of development, usually does not contain the details of the intended layout.
 2. **Reserved Matters**, following outline permission, containing layout, building details and any other matters not provided at the outline stage.
 3. **Full Planning**, containing full details, including layout and building details.
 4. **Change of Use**, usually change of use class, E.g., industrial to residential
- It is likely that officers will need to consider issues regarding air quality for outline and full planning applications and possibly change of use applications. Air quality is unlikely to be a material consideration in reserved matters applications.

Consultation and Communication between officers

It is essential that a two-way dialogue is established between air quality officers and development control officers. This dialogue is necessary to ensure that;

- Air quality officers are made aware as early as possible of development proposals with identified or potential air quality implications
- Air quality is taken into account as a material consideration for relevant applications.
- Development control officers can effectively assess the importance of air quality in their decision making process for individual applications

Where a major development is proposed air quality implications should be assessed as early as possible. If there appears to be an air quality issue air quality officers need to be consulted on the proposal at the pre-application stage as it may be necessary for extensive, time consuming air quality monitoring to be carried out by the applicant in preparation for a planning application.

Other officers working within the Council will also need to interact with air quality officers. Traffic engineers, urban design officers and planning policy officers will also need to be aware of air quality issues when examining proposed future developments.

Other agencies out side of the Council may also need to input into the planning process with respect to air quality, The Highways agency for road traffic issues on certain roads, the Environment Agency for industrial emission from industry they regulate and the Local Health Trusts for health impact assessments in certain cases.

Applications required by Environmental Protection

To assist development control officers in deciding which applications and proposals to send to E.P. for the consideration of air quality issues the following list has been developed;

1. Proposals which could result in the worsening of air quality at or near to areas of exceedence or poor air quality (see Appendix 2 for list of areas of exceedence and poor air quality)
2. Proposals which would conflict with, or render unworkable, elements of an air quality action plan
3. Proposals for new or revised transport routes or transport infrastructure (Includes road, rail, metro, waterways and air transport modes)
4. Proposals that may result in increased congestion and lower vehicle speeds than is present on the existing local road network, particularly in areas of public exposure

5. Proposals that may significantly alter the composition of traffic such that adverse air quality impacts arise, particularly in areas of public exposure
6. Proposals which may result in the enclosure of streets which may reduce dilution and dispersion of pollutants
7. Proposals for residential development with facades within 10 metres of the kerbside of a busy road.
8. Proposals with a provision for 20 or more vehicle parking spaces
9. Any other proposals which are likely to create or increase public exposure to poor air quality
10. Where a proposed development may adversely affect or be adversely affected by an AQMA or development in a neighbouring authority. (Wolverhampton, Sandwell, Birmingham, Bromsgrove & South Staffordshire)

Circumstances when an Air Quality Assessment shall be provided with the Planning Application

An air quality assessment is **required** in respect of applications for the following types of development. **Planning applications should not be registered unless an air quality assessment is provided with the application.**

1. Any relevant development proposal likely to have an adverse impact on air quality at known areas of exceedence or areas of poor air quality (see appendix 2) or may result in the breach of an air quality objective. Also includes adjacent Local Authorities.
2. Proposals for new developments with 300 parking spaces or more or an increase in existing parking provision of 300 spaces or more
3. Proposals which would further enclose a street where vehicles pass through and may reduce dispersion of pollution.
4. Proposals for new, or extensions or alterations to existing coach and lorry parks, bus stations, taxi ranks, train stations, metro stations and air ports. Proposals for significant infrastructure for any of the above transport types.
5. Proposals that will result in an increase in vehicle trip generation in the local area, and which will result in increases in traffic volumes (AADT) of 5% or more on individual road links with more than 10,000 vehicles per day. (*Traffic engineers rather than development control officers are most likely to identify this issue*)

6. Any residential development or other sensitive development 5 metres or less from the kerbside to a busy road
7. Where the development has potential for significant emissions to air from a new facility or extension to an existing facility, from sources other than road traffic, e.g., a new industrial development, a waste handling facility, etc.

In the NSCA guidance document, Development Control: Planning for Air Quality, there is a line diagram which demonstrates the steps a Local Authority should consider when considering the significance of the air quality impacts for a development proposal. The diagram is included in appendix 3, it may be useful for officers to refer to this diagram when deciding on the potential air quality issues from a specific development proposal.

Air Quality Conditions

The following conditions are provided as examples which may be appropriate to use for application responses where air quality has been deemed to be a material consideration. This is not a definitive or exclusive list.

Circumstance 1

At or close to an area of exceedence or where exceedences are suspected and the distance of the proposed development from the kerb of a road which is subject to congestion is 5 metres or less.

Condition 1 (For outline applications only)

The distance of any occupied building from the kerb of any road which is subject to congestion shall be not less than 5 metres.

Where the layout is indicated , use the following condition;

Notwithstanding the layout as illustrated on the approved plans (Ref P0X/XXX) prior to commencement of the development full details of the layout shall be submitted to and approved in writing by the Local Planning Authority. The layout shall ensure that the distance of any occupied building from the kerb of any road which is subject to congestion shall be not less than 5 metres.

Reason: In order to safeguard the amenities of the occupiers of the proposed buildings(s) in respect of atmospheric pollution, as required in policy DD4, "Development in Residential Areas".

Circumstance 2

At or close to an area of exceedence or where exceedences are suspected where the distance of the proposed development from the kerb of a road which is subject to congestion is less than 10 metres.

Condition 2

Prior to the commencement of the development (including any building works) an air quality assessment shall be carried out for the proposal and a scheme for protecting the future occupiers of the proposed building(s) from (*insert pollutants of concern*) from (*insert source of pollution, e.g. road traffic*) has been submitted to and approved by the Local Planning Authority. All works, which form part of the scheme, shall be completed before the permitted building(s) is occupied. All works which form a part of an air quality protection scheme shall be maintained for the life of the development.

Reason: In order to safeguard the amenities of the occupiers of the proposed dwelling(s) in respect of atmospheric pollution, as required by policy DD4, "Development in Residential Areas".

Circumstance 3

A reduced parking provision requirement should be provided whenever possible where a proposed relevant development is at or close to an area of exceedence or where exceedences are suspected and it has been deemed necessary to limit the influx of vehicles into the area.

Condition 3

A limit of no more than (*stipulate the number of parking spaces*) parking space(s) shall be allocated to this development and retained for the life of the development. (may need to differentiate between resident & visitor parking space provision)

Reason: In order to safeguard the amenities of the occupiers of the proposed and nearby dwelling(s) in respect of atmospheric pollution, as required by policy DD4, "Development in Residential Areas".

Circumstance 4

Where additional vehicle use is likely due to the type of planning proposal and there is likely to be an adverse effect on an area of exceedence or where exceedences are suspected;

Condition 4

No part of the development shall be occupied until a Travel Plan has been submitted and approved in writing by the Council. A travel plan shall include details of the travel plan co-ordinator, staff travel survey, car parking management, public transport, walking & cycling initiatives, publicity & marketing, setting targets and monitoring and where applicable to join "company travel wise" in Dudley, together with a timetable for the implementation of each such element.

The travel plan shall be implemented in accordance with the details approved by the Council and remain operational for the life of the development.

Reason: In order to safeguard the amenities of the occupiers of the proposed and nearby dwelling(s) in respect of atmospheric pollution, as required by policy DD4, "Development in Residential Areas"

Additional Notes

Position of developments in relation to highways

In many cases development sites located next to busy roads are relatively shallow, with rear garden depth standards (minimum 11 metres) being threatened if buildings are forced back from the road to protect residents from poor air quality. The suitability of the proposed buildings for the site and the amenity space remaining around the building should be considered as a primary factor on application. Proposed layouts may need to be amended or the application refused if insufficient distance between the facade of the proposed building and a highway is achievable to safeguard the amenity of future occupiers from poor air quality or indeed if there is inadequate rear garden depth to meet the amenity standard.

The issue of the building line of proposed developments needs careful consideration. A common urban design characteristic is for new buildings to match the building line of existing buildings in the vicinity of the development site. Environmental Protection Officers may require that the front façade of a new development is sited at least 5 metres from the kerbside because of poor air quality due to road traffic. This may cause a conflict of interests. It will be for the Development Control Case Officer to decide if the effect of poor air quality (and noise) on the health of the future occupiers of the buildings or the visual aspect of the development takes precedence and where necessary to justify that decision.

The impact of cumulative effect

Where a number of small developments which would individually be insignificant occur in close proximity, a cumulative effect may result which does have an adverse effect on air quality. For example, where a road servicing several new developments becomes significantly busier due to additional vehicles from the new developments. It is therefore important to consider the cumulative effect, particularly where the developments are occurring over a relatively short period of time. In such circumstances it would be appropriate for the developers involved with each proposal to contribute to a cumulative traffic & air quality assessment and to contribute accordingly to any necessary off site protection and ongoing monitoring works through a section 106 agreement.

Planning Obligations (Section 106 Agreements)

The use of section 106 agreements with respect to air quality should be considered where ever it is necessary for provisions to safeguard air quality to take place outside of the boundary of the development site. A section 106 agreement is intended to make acceptable development which otherwise be unacceptable and can either prescribe the nature of development, secure a contribution from the developer to compensate for loss due to the

development or else mitigate impacts from a development. In practice the Section 106 agreement may be used to provide air quality monitoring equipment or finance to improve air quality monitoring within the vicinity of the proposed development or within the Borough as a whole. Or to help finance improvements to public transport or alternative methods of travel for the area or to make highways improvements which will reduce congestion and improve air quality.

Dudley MBC have published a draft SPG on Planning Obligations, use the following link;

<http://www.dudley.gov.uk/index.asp?pgid=31860>

Mitigating & offsetting measures

Officers should always consider measures which can be provided to protect future occupiers from the effects of poor air quality. The provision of mitigating and offsetting measures may allow development to be approved with conditions which would otherwise be refused. Some examples include;

Mitigating measures

- Orientation of windows and doors
- Provision of mechanical ventilation or whole house / building ventilation schemes
- Buffer zones
- Low emission zones
- Parking restrictions
- Positively encourage the use of public transport and low emission transport through a transport management strategy
- Minimise the need for travel / Travel planning

Offsetting measures

- Provide a contribution to allow improvements in traffic management systems
- Provide a contribution to make road improvements, ie widen a footpath, introduce a one way system, change speed limits, etc
- Provide on and off site cycle & walking facilities
- Provide a contribution to improve public transport services serving the development

However, in some circumstances it may not be possible to adequately protect future occupiers against the effects of poor air quality because windows need to be openable for means of escape from fire, and mechanical ventilation systems are not normally sufficient to provide rapid ventilation for quick relief from internally generated pollutants. In addition offsetting measures may not be adequate to reduce air pollution to an acceptable level. In such cases it may not be possible to agree a compromise where the amenity of future occupiers is protected, in these circumstances the consultation response from E.P. is likely to be for refusal on air quality grounds.

Noise Issues linked to poor air quality

Noise and poor air quality are often associated where the source of both is from road traffic. It is likely that where a proposed building cannot satisfy the

necessary requirements for noise protection it will also be adversely affected by poor air quality. Both of these issues need to be considered in unison as the protection measures available are often complimentary.

Air Quality Assessments

On page 6 of this guidance document there is a list of development scenarios where an air quality assessment will be required. The purpose of an air quality assessment is to demonstrate the likely changes in air quality or exposure to poor air quality as a result of the proposed development. The assessment consists of four basic steps;

- Assess the existing air quality situation in the study area;
- Predict the future air quality without the proposed development in place;
- Predict the future air quality with the proposed development in place;
- Assess the effect the proposed development will have on air quality.

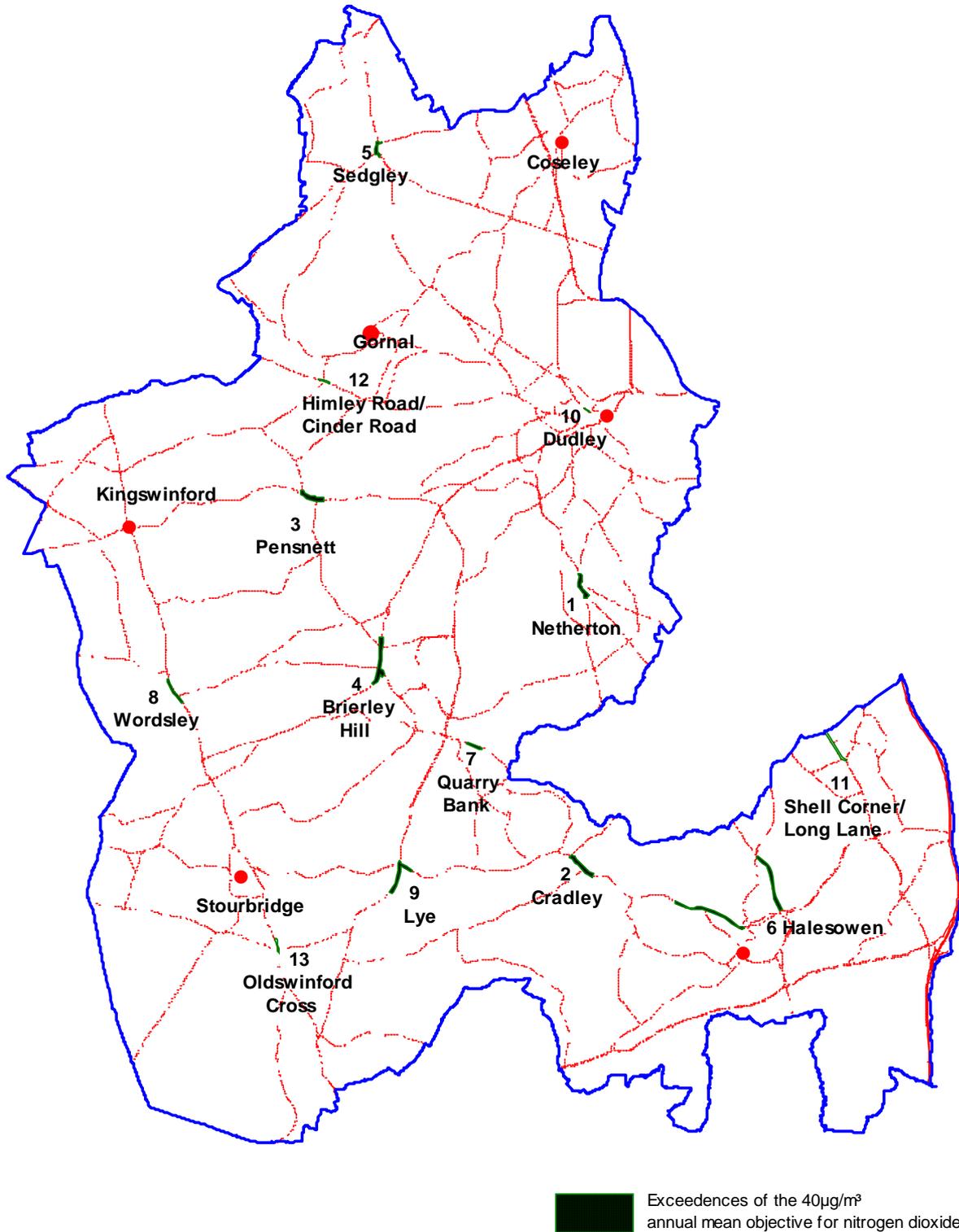
The assessment will need to include;

- The relevant details of the proposed development
- Details of the relevant air quality standards and objectives
- Details of the agreed assessment method
- Results of the modelling exercise
- Summary of the assessment results
- Effect on the proposed development
- Provisions if any, necessary to protect air quality

It is important that the person undertaking the air quality assessment discusses the approach and modelling to be used with the local authority to ensure that the appropriate work will be undertaken which is relevant to the type and location of the proposed development.

Any Queries on Air Quality should be directed to the Air Quality team in Environmental Protection;
Glyn Hodgkiss – 818133
Richard Gunning – 812533
or Tim Glews, Environmental Protection Manager - 814606

Appendix 1
Map of areas of known exceedences within DudleyMB
(Dec 2007)



*Reproduced from the O.S. mapping with the permission of The Controller of H.M.S.O.
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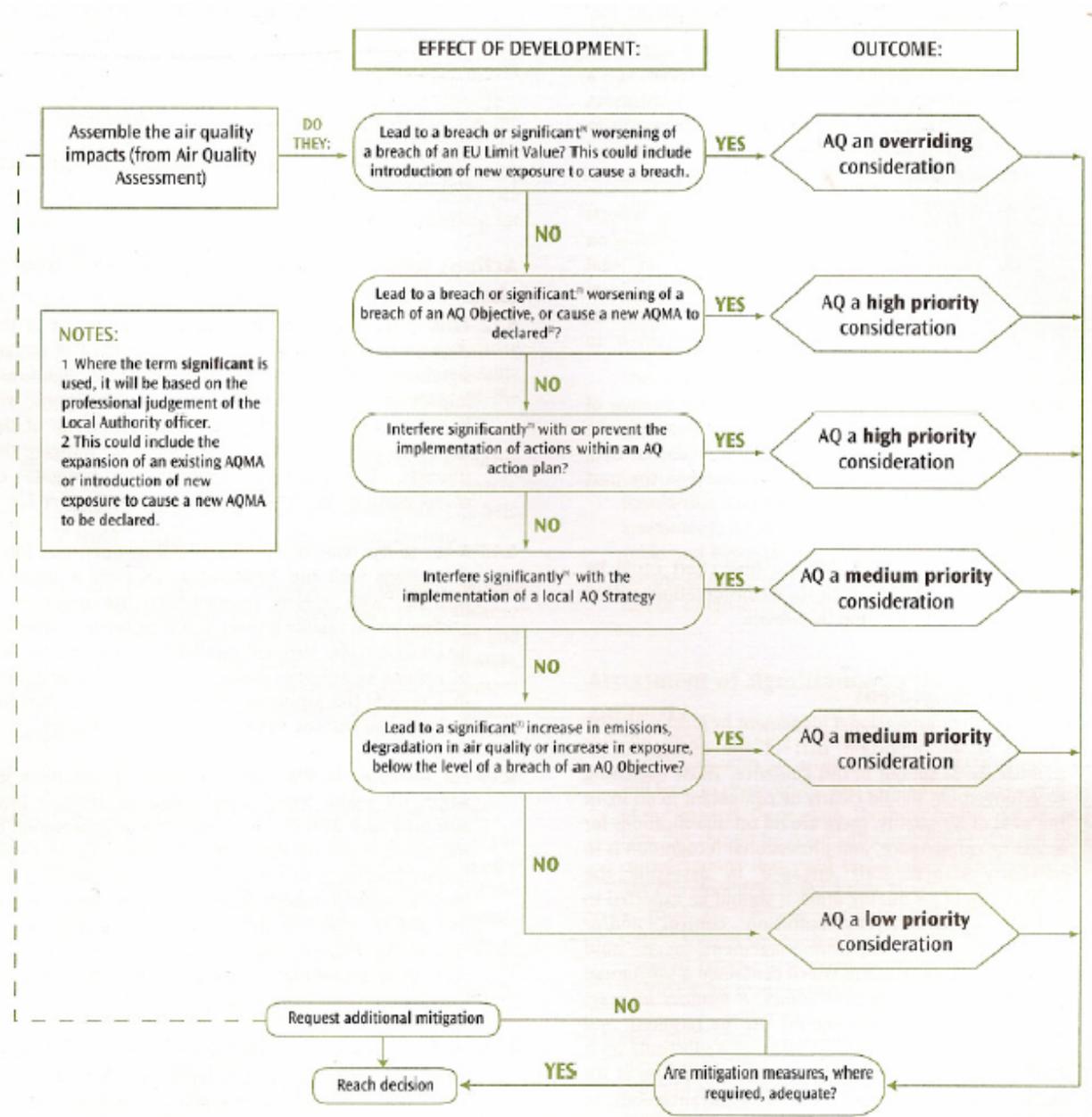
Appendix 2
Known Areas of Exceedence in Dudley

	Area	Comments
1	Netherton	Exceedences along Halesowen Road between Baptist End Road and Cradley Road and properties close to Cradley Road near to junction with Halesowen Road.
2	Cradley	Exceedences with relevant exposure at properties close to Windmill Hill and Drews Holloway
3	High Street Pensnett	Exceedences in several places with relevant exposure.
4	Brierley Hill	Exceedences along Dudley Road and Brierley Hill High Street between Waterfront Way and Bell Street South and Mill Street from Little Cottage Street to High Street.
5	Sedgley	Exceedences around Sedgley Bullring and in High Street from Bullring to Brick Street, Dudley Street from Bullring to High Holborn and Bilston Street from High Street to Castle Street.
6	Halesowen	Exceedences at properties close to the A458 Stourbridge Road between junction with George Road and Earls Island and also properties close to Dudley Street between Mucklows Hill island and Furnace Hill.
7	High Street, Quarry Bank	Exceedences along the left hand side of Quarry Bank High Street going up the hill.
8	High Street, Wordsley	Exceedences with relevant exposure
9	High Street/Pedmore Road, Lye	Possibility of exceedences on High Street and Pedmore Road. Exceedences on Pedmore Road between Folkes Road junction and Lye Cross.
10	New Street, Dudley	Exceedences at properties on New Street between Tower Street and Castle Street
11	Long Lane and Shell Corner	Possibility of exceedences at Shell Corner and properties close to Long Lane between Shell Corner and Borough boundary (railway line).
12	Himley Road at Cinder Road junction	Exceedences at properties close to Himley Road at junction with Cinder Road.
13	Oldswinford Cross	Possibility of exceedences at properties close to Hagley Road, near Oldswinford Cross

This table is prepared from provisional monitoring data available in **December 2007**. The position may change with further data, and final ratification of data. There may well be other areas of exceedence and it is relevant to note that declared or potential AQMAs from other authorities may adjoin Dudley MB boundary and so should be considered.

Appendix 3

Steps for a Local Authority to take when considering the significance of air quality impacts for a development proposal



(Taken from the NSCA guidance, Development Control: Planning for Air Quality (2006))