

## ENVIRONMENT ACT 1995

### Environment Act 1995 (Essex County Council and Basildon Borough Council) Air Quality Direction 2021

The Secretary of State, in exercise of the power conferred by section 85(5) of the Environment Act 1995(a), gives the following direction.

In accordance with section 85(6) a copy of this direction will be published in the London Gazette.

The Secretary of State makes this direction having determined that it is necessary in order to meet obligations placed upon the UK under the EU Ambient Air Quality Directive(b).

#### **Citation, commencement and application**

1.—(1) This direction may be cited as the Environment Act 1995 (Essex County Council and Basildon Borough Council) Air Quality Direction 2021 and comes into force on the day after it is made.

(2) This direction applies to Essex County Council and Basildon Borough Council.

#### **Interpretation**

2. In this direction—

“AQP” means the UK plan for tackling roadside nitrogen dioxide concentrations 2017, drawn up by the Secretary of State in accordance with regulation 26(1) of the Air Quality Standards Regulations 2010(c);

“the authorities” means Essex County Council and Basildon Borough Council;

“full business case” means a document that sets out the commercial and contractual arrangements, affordability, and management arrangements to ensure successful delivery of the scheme detailed in the local plan for NO<sub>2</sub> compliance;

“local plan for NO<sub>2</sub> compliance” means the detailed scheme which the authority identified as part of the AQP to deliver compliance with the legal limit value for nitrogen dioxide in the shortest possible time that was supplanted by additional modelling provided to the Secretary of State on 25 March 2021 and is summarised in Schedule 1.

“local transport policies” has the meaning given by section 108(5) of the 2000 Act(d).

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(a) 1995 c25.

(b) 2008/50/EC OJ No. L 152, 11.06.08, p.1.

(c) S.I. 2010/1001. A copy of the plan is available at: <https://www.gov.uk/government/publications/air-quality-plan-for-nitrogen-dioxide-no2-in-uk-2017>.

(d) Section 108(5) was inserted by section 7(1) and (2) of the Local Transport Act 2008 (c.26).

### **Duty to implement the local plan for NO<sub>2</sub> compliance**

3.—(1) The authorities must take steps to implement the local plan for NO<sub>2</sub> compliance for the area for which they are responsible.

- (2) The authorities must ensure that the local plan for NO<sub>2</sub> compliance is implemented so that—
- (a) compliance with the legal limit value for nitrogen dioxide is achieved in the shortest possible time, and by 2022 at the latest;
  - (b) exposure to levels above the legal limit for nitrogen dioxide are reduced as quickly as possible.

### **Duty to prepare and submit a full business case**

4.—(1) The authorities must prepare a full business case for the areas for which they are responsible.

(2) The full business case must be submitted to the Secretary of State as soon as possible and by 21 May 2021 at the latest.

### **Inquiry in respect of a full business case**

5.—(1) The authorities must only exercise their power to hold a local inquiry in relation to any scheme in their full business case in accordance with this Article.

(2) The authorities may only hold a local inquiry if it is necessary to do so, notwithstanding any other opportunities which the authorities have or could have provided for representations to be made in relation to the scheme.

(3) Before an inquiry is held in accordance with paragraph (2), the authorities must consult the Secretary of State and—

- (a) submit to the Secretary of State reasons why the authorities believe an inquiry is necessary,
- (b) submit a proposed timetable for the completion of the inquiry, and
- (c) inform the Secretary of State whether the inquiry will be in addition to or instead of any other opportunity to make representations about the scheme identified in the full business case.

(4) Where the authorities consult the Secretary of State under paragraph (3), the authorities can only begin the inquiry if they have received consent from the Secretary of State including for the timetable for the completion of the inquiry.

(5) In this direction, a reference to holding a local inquiry includes a reference to causing a local inquiry to be held.

### **Submission of the full business case to the Secretary of State**

6. When submitting the full business case, the authorities must provide the Secretary of State with the following information—

- (a) the date on which it is proposed that the scheme identified in the full business case will come into effect;
- (b) confirmation that all public consultation necessary in respect of the scheme identified in the full business case, has been completed;
- (c) a summary of any responses received in response to any consultation and of the changes (if any) made to the scheme identified in the full business case following that consultation;
- (d) confirmation that the scheme facilitates the achievement of the local transport policies (where applicable) which apply in the authorities' areas;
- (e) confirmation—

- (i) that no local inquiry under has been held or is due to be held, or
- (ii) that a local inquiry has taken place in accordance with the consent and timetable agreed by the Secretary of State under Article 6 of this Direction.

**Variation, revocation or suspension**

7. The authorities must not vary, revoke or suspend its implementation of the local plan for NO<sub>2</sub> compliance pursuant to Article 4, without the prior written consent of the Secretary of State.

**Guidance**

8. The authorities, in taking steps under this direction, must have regard to relevant guidance issued by the Secretary of State.

Rebecca Pow MP  
 Parliamentary Under Secretary of State for the Environment  
 Department for the Environment Food & Rural Affairs

25 March 2021

**SCHEDULE 1**

Article 4

**Summary of local plan for NO<sub>2</sub> compliance measures**

<i>Measures description</i>	<i>Deadlines</i>
Relocation of footpath and cycleway at East Mayne.	To be implemented as soon as possible and at least in time to bring forward compliance to 2022.

**EXPLANATORY NOTE**

*(This note is not part of the direction)*

This direction directs Essex County Council and Basildon Borough Council, and for the purposes of this direction is referred to as “the authorities”, to implement its local plan for NO<sub>2</sub> compliance and to provide a full business case, in connection with duties in respect of air quality under Part 4 of the Environment Act 1995 and as part of the UK plan for tackling roadside nitrogen dioxide concentrations 2017. The local plan for NO<sub>2</sub> compliance approved by the Secretary of State on 25 March 2021, must now be implemented to ensure compliance with the legal limit value for nitrogen dioxide is achieved in the authorities’ areas in the shortest possible time. Under section 85(7) of the Environment Act it is the duty of a local authority to comply with a direction given to it. A copy of this direction is available at for inspection at Seacole Building, 2 Marsham Street, London, SW1P 4DF.