

Heckington Fen Solar Park

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Appendix 15.1: Legislation, Policy and Guidance Documents

Applicant: Ecotricity (Heck Fen Solar) Limited

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APPENDIX 15.1 – LEGISLATION, POLICY AND GUIDANCE

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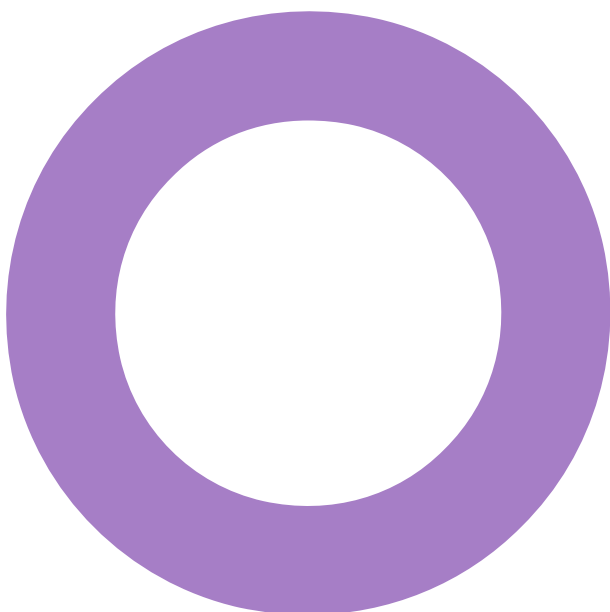
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AIR QUALITY

APPENDIX 15.1

LEGISLATION, POLICY AND GUIDANCE DOCUMENTS

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Audit sheet.

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This document has been prepared for Ecotricity (Heck Fen Solar) Ltd. only and solely for the purposes expressly defined herein. We owe no duty of care to any third parties in respect of its content. Therefore, unless expressly agreed by us in signed writing, we hereby exclude all liability to third parties, including liability for negligence, save only for liabilities that cannot be so excluded by operation of applicable law. The consequences of climate change and the effects of future changes in climatic conditions cannot be accurately predicted. This report has been based solely on the specific design assumptions and criteria stated herein.

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Contents.

Audit sheet.	2
Contents.	3
Appendix 15.1 – Legislation, Policy and Guidance Documents.	4
Legislation.	4
The Environment Act 1995.	4
The Environment Act 2021.	4
Air Quality Strategy and Local Air Quality Management.	4
Planning Policy.	5
Overarching National Policy Statement for Energy (EN-1).	5
National Policy Statement for Renewable Energy Infrastructure (EN-3).	5
Local Policy.	7
Assessment Guidance.	8

Appendix 15.1 – Legislation, Policy and Guidance Documents.

Legislation.

The Environment Act 1995

The Environment Act 1995¹ was the original piece of legislation to establish the Environment Agency to take on the responsibility of protecting ecosystems and controlling pollution. It introduced the requirement for the government to produce an annual Air Quality Strategy, setting out air quality standards, objectives and measures for improving ambient air quality. It has since been amended by The Environment Act 2021, as described below.

The Environment Act 2021

The Environment Act 2021² acts as the UK's new framework of environmental protection and came into force on 1st April 2022. With regard to air quality, the Environment Act establishes a legally binding duty on government to bring forward at least two new air quality targets in secondary legislation by 31st October 2022. However, these targets have since been delayed indefinitely³. Target objectives⁴ under consideration for air quality include:

- Reducing the annual mean level of fine particulate matter (PM_{2.5}) in ambient air (as required by Clause 2 of the Environment Act); and
- Reducing population exposure to PM_{2.5}.

Air Quality Strategy and Local Air Quality Management

The Environment Act 1995 (Part IV)¹ requires the Secretary of State to publish an air quality strategy and local authorities to review and assess the quality of air within their boundaries. The latter has become known as Local Air Quality Management (LAQM).

The Air Quality Strategy⁵ provides the policy framework for local air quality management and assessment in the UK. It sets out air quality standards and objectives for key air pollutants. These standards and objectives are designed to protect human health and the environment. The Strategy also sets out how the different sectors of industry, transport and local government, can contribute to achieving these air quality objectives.

Local authorities are required to identify whether the objectives have been, or will be, achieved at relevant locations. If the objectives are not achieved, the authority must declare an Air Quality Management Area (AQMA) and should prepare an Air Quality Action Plan (AQAP) within 12 months. The action plan must identify appropriate measures and policies that can be introduced to help achieve the objective(s).

The air quality objectives set out the extent to which the Government expects the standards to be achieved by a certain date. They take account of economic efficiency, practicability, technical feasibility and timescale. The objectives for use by local authorities are prescribed within the Air Quality (England) Regulations 2000⁶, and the Air Quality (England) (Amendment) Regulations 2002⁷.

The objectives for nitrogen dioxide (NO₂) and fine particulate matter (PM₁₀ and PM_{2.5}) are given in Table A15.1. The target dates for meeting the NO₂ and PM₁₀ objectives were 2005 and 2004, respectively. It should be noted that local authorities in England have a flexible role in working towards reducing emissions and concentrations of PM_{2.5}.

Table A15.1: Air Quality Objectives for NO₂, PM₁₀ and PM_{2.5}

Pollutant	Time Period	Air Quality Objective
NO ₂	1-hour Mean	200 Micrograms per metre cubed (µg/m ³) not to be exceeded more than 18 times a year
	Annual Mean	40 µg/m ³
PM ₁₀ [†]	24-hour Mean	50 µg/m ³ Not to be exceeded more than 35 times a year
	Annual Mean	40 µg/m ³
PM _{2.5} [†]	Annual Mean	25 µg/m ³
Notes: [†] Measured gravimetrically.		

The objectives apply at locations where members of the public are likely to be regularly present and exposed over the averaging period of the objective. Examples of where the annual mean objectives should apply are provided in LAQM Technical Guidance (TG)(22)⁸ and include building façades of residential properties, schools, hospitals. The annual mean objectives are not relevant for the building façades of offices or other places of work where members of the public do not have regular access, nor kerbsides nor gardens.

The 24-hour objective for PM₁₀ is considered to apply at the same locations as the annual mean objective, as well as in gardens of residential properties and at hotels.

The 1-hour objective for NO₂ also applies wherever members of the public might regularly spend 1-hour or more, including outdoor eating locations, pavements of busy shopping streets, car parks and bus stations which are not fully enclosed. The 1-hour objective does not apply at kerbside sites where the public do not have regular access.

The Air Quality Standards Regulations 2010 and the Air Quality Standards (Amendment) Regulations 2016

The European Union has also set limit values for NO₂, PM₁₀ and PM_{2.5}; these are legally binding and have been implemented into English legislation by The Air Quality Standards Regulations 2010⁹.

The limit values for NO₂, PM₁₀ and PM_{2.5} are the same as the English AQOs (Table A15.1), but applied from 2010 for NO₂, 2005 for PM₁₀ and 2015 for PM_{2.5}. The limit values apply at all locations (apart from where the public does not have access, where health and safety at work provisions apply and on the road carriageway).

These were updated in 2016¹⁰ in line with the EU Directive 2015/1480¹¹. These updated the technical requirements for monitoring, along with updates on the responsibilities of local authorities.

Planning Policy.

Overarching National Policy Statement for Energy (EN-1)

The Department of Energy and Climate Change published the Overarching National Policy Statement for Energy (EN-1)¹² was published in July 2011. It sets out the policy and guidance on generic impacts to help inform Local Planning Authorities (LPAs) in preparing local impact reports. Section 5.2 provides an overview on assessments, decision making and mitigation that should be implemented to manage adverse air quality impacts caused by energy infrastructure development. A draft update to the Overarching National Policy statements was published in September of 2021¹³. They are in line with the government's goals to transition to net zero. However, these have since been delayed and are expected to be adopted during 2023¹⁴.

National Policy Statement for Renewable Energy Infrastructure (EN-3)

The Department of Energy and Climate Change published the National Policy Statement for Renewable Energy Infrastructure (EN-3)¹⁵ was published in July 2011. In conjunction with EN-1, this provides the primary basis for decisions by the Infrastructure Planning Committee (IPC) on applications it receives for nationally significant renewable energy infrastructure. A draft update to the National Policy Statements was published in September

of 2021¹⁶. They are in line with the government's goals to transition to net zero. However, these have since been delayed and are expected to be adopted during 2023¹⁷.

National Planning Policy Framework

The National Planning Policy Framework (NPPF) 2021¹⁸ sets out planning policy for England. It includes advice on when air quality should be a material consideration in development control decisions. Relevant sections are set out below:

Paragraph 55: *"Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition."*

Paragraph 104: *"Transport issues should be considered from the earliest stages of plan-making and development proposals, so that: a) the potential impacts of development on transport networks can be addressed; b) opportunities from existing or proposed transport infrastructure, and changing transport technology and usage, are realised – for example in relation to the scale, location or density of development that can be accommodated; c) opportunities to promote walking, cycling and public transport use are identified and pursued; d) the environmental impacts of traffic and transport infrastructure can be identified, assessed and taken into account – including appropriate opportunities for avoiding and mitigating any adverse effects, and for net environmental gains; and e) patterns of movement, streets, parking and other transport considerations are integral to the design of schemes, and contribute to making high quality places."*

Paragraph 105: *"The planning system should actively manage patterns of growth in support of these objectives. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health. However, opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making."*

Paragraph 174: *"Planning policies and decisions should contribute to and enhance the natural and local environment by: 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."*

Paragraph 185: *"Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development."*

Paragraph 186: *"Planning policies and decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas. Opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management, and green infrastructure provision and enhancement. So far as possible these opportunities should be considered at the plan-making stage, to ensure a strategic approach and limit the need for issues to be reconsidered when determining individual applications. Planning decisions should ensure that any new development in Air Quality Management Areas and Clean Air Zones is consistent with the local air quality action plan."*

Paragraph 188: *"The focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities."*

The NPPF is supported by Planning Practice Guidance (PPG)¹⁹.

The PPG states that:

Paragraph 001 (Reference ID: 32-001-20191101): “Defra carries out an annual national assessment of air quality using modelling and monitoring to determine compliance with the relevant Limit Values. It is important that the potential impact of new development on air quality is taken into account in planning where the national assessment indicates that relevant limits have been exceeded or are near the limit or where the need for emissions reductions has been identified.”

Paragraph 002 (Reference ID: 32-002-20191101): “Plans may need to consider ways in which the development could be made appropriate in locations where air quality is or is likely to be a concern, and not give rise to unacceptable risks from pollution. This could, for example entail identifying measures for offsetting the impact on air quality arising from new development including supporting measures in an air quality action plan or low emissions strategy where applicable”.

Paragraph 005 (Reference ID: 32-005-20191101): “Whether air quality is relevant to a planning decision will depend on the proposed development and its location. Concerns could arise if the development is likely to have an adverse effect on air quality in areas where it is already known to be poor, particularly if it could affect the implementation of air quality strategies and action plans and / or breach legal obligations (including those relating to the conservation of habitats and species). Air quality may also be a material consideration if the proposed development would be particularly sensitive to poor air quality in its vicinity.”

The PPG also sets out the information that may be required in an air quality assessment, stating that:

Paragraph 007 (Reference ID: 32-007-20191101): “Assessments need to be proportional to the nature and scale of development proposed and the potential impacts (taking into account existing air quality conditions), and because of this are likely to be locationally specific. The scope and content of supporting information is best discussed and agreed between the local planning authority and applicant before it is commissioned.”

It also provides guidance on options for mitigating air quality impacts, and makes clear that:

Paragraph 008 (Reference ID: 32-008-20191101): “Mitigation options will need to be locationally specific, will depend on the proposed development and need to be proportionate to the likely impact.”

Local Policy.

The Central Lincolnshire Local Plan

The Central Lincolnshire Local Plan²⁰ is a joint set of policies adopted by multiple local authorities in the county, including North Kesteven District Council in which part of the Site is located. It contains the planning policies and allocations for the growth and regeneration of Central Lincolnshire over the next 20 years. A review of the Local Plan shows the following policy may be relevant to air quality:

“Policy LP26: Design and Amenity

All development, including extensions and alterations to existing buildings, must achieve high quality sustainable design that contributes positively to local character, landscape and townscape, and supports diversity, equality and access for all.

Development proposals will be assessed against the following relevant design and amenity criteria.

[...]

Amenity Considerations

The amenities which all existing and future occupants of neighbouring land and buildings may reasonably expect to enjoy must not be unduly harmed by or as a result of development.

Proposals should demonstrate, where applicable and to a degree proportionate to the proposal, how the following matters have been considered, in relation to both the construction and life of the development:

[...]

s. Adverse impact upon air quality from odour, fumes, smoke, dust and other sources;

[...]"

The South East Lincolnshire Local Plan

The South East Lincolnshire Local Plan²¹ is a set of joint policies adopted by multiple local authorities in the county, including Boston Borough Council in which part of the Site is located. It outlines the needs of the local area and the policies implemented in order to achieve them. A review of the Local Plan shows the following policy may be relevant to air quality:

"Policy 30: Pollution

Development proposals will not be permitted where, taking account of any proposed mitigation measures, they would lead to unacceptable adverse impacts upon:

[...]

4. air quality, including fumes and odour;

[...]

Planning applications, except for development within the curtilage of a dwelling house as specified within Schedule 2, Part 1 of The Town and Country Planning (General Permitted Development) (England) Order 2015, or successor statutory instrument, must include an assessment of:

9. impact on the proposed development from poor air quality from identified sources;

10. impact on air quality from the proposed development; and

11. impact on amenity from existing uses.

Suitable mitigation measures will be provided, if required. Proposals will be refused if impacts cannot be suitably mitigated or avoided.

Development proposals on contaminated land, or where there is reason to suspect contamination, must include an assessment of the extent of contamination and any possible risks. Proposals will not be considered favourably unless the land is, or can be made, suitable for the proposed use."

Assessment Guidance.

The primary guidance documents consulted in undertaking this assessment are detailed below.

Defra Local Air Quality Management Technical Guidance

Defra Local Air Quality Management Technical Guidance (LAQM.TG(22))⁸ was published for use by local authorities in their LAQM review and assessment work. The document provides key guidance in aspects of air quality assessment, including screening, use of monitoring data, and use of background data that are applicable to all air quality assessments.

EPUK and IAQM 'Air Quality Guidance for Planning'

Environmental Protection UK (EPUK) and the Institute of Air Quality Management (IAQM) have published guidance²² to help ensure that air quality is properly accounted for in the development control process. It clarifies when an air quality assessment should be undertaken, what it should contain, and how impacts should be described and assessed including guidelines for assessing the significance of impacts.

IAQM 'Construction and Demolition Dust Guidance'

Guidance on the assessment of dust from demolition and construction has been published by the IAQM²³. The guidance provides a methodology to determine the dust emission magnitude and provides a series of matrices to determine the risk magnitude of potential dust sources associated with construction activities. This allows for the identification of appropriate mitigation measures that are defined within further IAQM guidance.

IAQM 'A guide to the assessment of air quality impacts on designated nature conservation sites'

Guidance on the assessment of air quality impacts on designated nature conservation sites has been published by the IAQM²⁴. This provides a methodology for ensuring that ecologically sensitive areas and the habitats of

protected species are not harmed by air pollution in their vicinity. This recommends the appropriate measures and mitigations to prevent air quality impacts on these sites.

References

- ¹ The Stationary Office (1995) The Environment Act 1995, London
- ² The Stationary Office (2021) Statutory Instrument 2021, The Environment Act 2021, London
- ³ UK Parliament (2022) Update on the progress of the Environmental Act Targets – [online] (Last Accessed: 18/11/2022). Available at: <https://www.gov.uk/government/news/update-on-progress-on-environmental-targets>.
- ⁴ UKAIR (2022) Air Quality Targets in the Environment Act – [online] (Last Accessed: 23/06/2022), Available at: [https://uk-air.defra.gov.uk/library/air-quality-targets#:~:text=The%20Environment%20Act%202021%20establishes,Environment%20Act%20\(Part%201\)](https://uk-air.defra.gov.uk/library/air-quality-targets#:~:text=The%20Environment%20Act%202021%20establishes,Environment%20Act%20(Part%201)).
- ⁵ Defra (2007) The Air Quality Strategy for England, Scotland, Wales and Northern Ireland – [online] (Last accessed: 23/06/2022), Available at: www.gov.uk/government/publications/the-air-quality-strategy-for-england-scotland-wales-and-northern-ireland-volume-1
- ⁶ The Stationary Office (2000) Statutory Instrument 2000, No 928, The Air Quality (England) Regulations 2000, London
- ⁷ The Stationary Office (2002) Statutory Instrument 2002, No 3043, The Air Quality (England) (Amendment) Regulations 2002, London
- ⁸ Defra (2022) Local Air Quality Management Technical Guidance (TG22) – [online] (Last accessed: 23/08/2022), Available at: <https://laqm.defra.gov.uk/wp-content/uploads/2022/08/LAQM-TG22-August-22-v1.0.pdf>
- ⁹ The Stationary Office (2010) Statutory Instrument 2010, No 1001, The Air Quality Standards Regulations 2010, London
- ¹⁰ The Stationary Office (2010) Statutory Instrument 2016, No 1184, The Air Quality Standards (Amendment) Regulations 2016, London
- ¹¹ European Parliament (2015) Commission Directive (EU) 2015/1480, [online] (Last accessed: 18/01/2023), Available at <https://www.legislation.gov.uk/eudr/2015/1480/contents>
- ¹² Department of Energy and Climate Change (2011) Overarching National Policy Statement for Energy (EN-1) – [online] (Last accessed: 15/12/2022), Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/47854/1938-overarching-nps-for-energy-en1.pdf
- ¹³ Department of Energy and Climate Change (2021) Draft Overarching National Policy Statement for Energy (EN-1) – [online] (Last accessed: 20/12/2022), Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1015233/en-1-draft-for-consultation.pdf
- ¹⁴ HM Treasury (2022) Autumn Statement 2022 – [online], (Last accessed: 20/12/2022), Available at: <https://www.gov.uk/government/publications/autumn-statement-2022-documents/autumn-statement-2022-html>
- ¹⁵ Department of Energy and Climate Change (2011) National Policy Statement for Renewable Energy Infrastructure (EN-3) – [online] (Last accessed: 15/12/2022), Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/37048/1940-nps-renewable-energy-en3.pdf
- ¹⁶ Department of Energy and Climate Change (2021) Draft National Policy Statement for Renewable Energy Infrastructure (EN-3) – [online] (Last accessed: 20/12/2022), Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1015236/en-3-draft-for-consultation.pdf
- ¹⁷ HM Treasury (2022) Autumn Statement 2022 – [online], (Last accessed: 20/12/2022), Available at: <https://www.gov.uk/government/publications/autumn-statement-2022-documents/autumn-statement-2022-html>
- ¹⁸ Ministry of Housing, Communities & Local Government (2021) National Planning Policy Framework, Department for Communities and Local Governments, London
- ¹⁹ Ministry of Housing, Communities & Local Government (2021) Planning Practice Guidance, London
- ²⁰ Central Lincolnshire (2017) Central Lincolnshire Local Plan – [online] (Last accessed: 31/10/2022), Available at: <https://www.n-kesteven.gov.uk/EasySiteWeb/GatewayLink.aspx?allid=54815>
- ²¹ South East Lincolnshire (2019) South East Lincolnshire Local Plan – [online] (Last accessed: 31/10/2022), Available at: [REDACTED]
- ²² Environmental Protection UK and Institute of Air Quality Management (2017), Land-Use Planning & Development Control: Planning For Air Quality v1.2 – [online] (Last accessed: 23/06/22), Available at: iaqm.co.uk/text/guidance/air-quality-planning-guidance.pdf
- ²³ Institute of Air Quality Management (2016) Guidance on the assessment of dust from demolition and construction v1.1 – [online], (Last accessed: 23/06/2022), Available at: iaqm.co.uk/text/guidance/construction-dust-2014.pdf
- ²⁴ IAQM (2020) A guide to the assessment of air quality impacts on designated nature conservation sites – [online], (Last accessed: 04/11/2022), Available at: [REDACTED]



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