

12 September 2015

**Defra buries consultation on diesel ban in cities minutes before Corbyn election**

**Consultation promises further consultation in ‘early 2016’ on a ‘four tier’ national framework to ban or charge pre-Euro 6 diesel vehicles entering ‘Clean Air Zones’ in at least eight UK cities by 2020 but passes all responsibility, without money or new powers, to local authorities. Instead, diesel exhaust must be banned from the most polluted places as we banned coal burning so successfully 60 years ago**

**Consultation documents reveal that 80% of NO<sub>2</sub> legal breaches are due to road transport and no change in NO<sub>2</sub> concentrations at eight long-running urban traffic sites since 2002**

**Defra is flouting the Supreme Court ruling and provoking the European Commission. CAL hopes ClientEarth will reject this ‘plan for a plan by others’ and return quickly to the Supreme Court and urges the European Commission to send the UK a Reasoned Opinion (a.k.a. final written warning) on NO<sub>2</sub> by February 2016**

**Defra also shows it does not understand that limit values must be attained everywhere, with three exceptions, with major consequences for scheme developers such as Heathrow and HS2**

**First national estimate reveals 23,500 deaths attributable to NO<sub>2</sub> taking national total to 52,500**

Defra launched its consultation on plans for a diesel ban in cities to comply with nitrogen dioxide (NO<sub>2</sub>) limit values on a Saturday morning minutes before Jeremy Corbyn MP was elected as leader of the Labour Party. The Consultation and ‘Draft UK overview document’ can be seen here:

<https://consult.defra.gov.uk/airquality/draft-aq-plans>

[https://consult.defra.gov.uk/airquality/draft-aq-plans/supporting\\_documents/Draft%20plans%20to%20improve%20air%20quality%20in%20the%20UK%20%20Overview%20document%20September%202015%20final%20version%20folder.pdf](https://consult.defra.gov.uk/airquality/draft-aq-plans/supporting_documents/Draft%20plans%20to%20improve%20air%20quality%20in%20the%20UK%20%20Overview%20document%20September%202015%20final%20version%20folder.pdf)

The Consultation is a necessary step for Defra before the UK lodges formal plans with the European Commission by 31 December 2015 in accordance with a mandatory order from the Supreme Court in ClientEarth vs Defra. The Consultation closes on Friday 6 November 2015.

## Key points

Key points in the ‘Draft UK overview document’ include:

- i. the first national estimate of 23,500 deaths attributable to NO<sub>2</sub> in the UK (paragraph 8 on page 5);
- ii. promising a further consultation in ‘early 2016’ on a ‘four tier’ national framework to ban or charge pre-Euro 6 diesel vehicles entering ‘Clean Air Zones’ in at least eight UK cities

by 2020 but passes all responsibility, without money or new powers, to local authorities (section 4.3.6 from page 32);

- iii. 80% of NO<sub>2</sub> legal breaches are due to road transport (paragraph 204 on page 42). Other key sources are energy, manufacturing, the construction industry and processes; and
- iv. no 'clear' change in NO<sub>2</sub> concentrations at eight long-running urban traffic sites since 2002 (page 50).

Defra has shown it fundamentally misunderstands its legal duties by:

- flouting the Supreme Court ruling to submit proper plans to the European Commission by 31 December 2015 by intending instead to submit a 'plan for plans by others' as it did when it applied unsuccessfully to the European Commission for a time extension to comply with NO<sub>2</sub> limit values in September 2011;
- making little or no effort to comply with NO<sub>2</sub> limit values in at least 28 UK zones before 2020, seven more before 2025 and London before 2030 unless others choose to adopt its 'plan for a plan' of 'Clean Air Zones'. Perhaps it does not care, simply hoping to do enough to blame others for a public health catastrophe and justify passing any European Union fines for non-compliance with NO<sub>2</sub> limit values since January 2010 to cities and local authorities under the Localism Act 2011; and
- showing it does not understand that limit values must be achieved everywhere with three small exceptions with major consequences for scheme developers such as Heathrow and Gatwick airports and HS2. It does so by suggesting wrongly that developments can proceed unless: "the air quality impacts of a scheme [after taking account of mitigation] will result in a currently compliant zone or agglomeration becoming non-compliant; or affect the ability of a non-compliant area to achieve compliance within the most recent timescales reported to the European Commission at the time of the decision" (paragraph 115 on page 28).

CAL publishes evidence below that shows Defra knew by February 2009 that a national network of low emission zones was needed to comply with NO<sub>2</sub> limit values and applied unsuccessfully to the European Commission on the same basis in September 2011. Only now does Defra promise to consult further on a national framework of London-style so-called 'ultra-low emission zones' in early 2016. Its 'four tier' framework might be the basis for widespread charging or bans of pre-Euro 6 diesel vehicles.

## Quotes

Simon Birkett, Founder and Director of Clean Air in London, said:

"The biggest news in Defra's consultation is the first national estimate of 23,500 deaths attributable to nitrogen dioxide (NO<sub>2</sub>). This is a staggering number on top of 29,000 deaths attributable to fine particles (PM<sub>2.5</sub>) in 2010. Two months ago, the Mayor of London estimated 5,900 such deaths attributable to NO<sub>2</sub> in London alone in 2010. We await COMEAP official estimates.

“Clean Air in London (CAL) welcomes Defra’s promise to set out a full national framework for ‘Clean Air Zones’ in early 2016 and work closely with local authorities to ensure that the framework gives the guidance they would find most relevant and useful. But this effort will: miss the Supreme Court’s deadline of 31 December; start more than six years after legal limits had to be met everywhere and 16 years after the legislation requiring it; and at the end of it achieve nothing more than a framework for cities local authorities and others to spend years more deciding whether or not to adopt it. Many cities have already chosen to reject similar schemes although admittedly they could not rely on a national framework. In contrast, Germany and others already have scores of low emission zones.

“Put bluntly, Defra is flouting the Supreme Court ruling, provoking the European Commission and misleading developers with statements that show it fails fundamentally to understand that limit values apply everywhere, with three small exceptions, and must be achieved irrespective of cost to protect public health.

“CAL hopes ClientEarth will reject this ‘plans for plans by others’ and return quickly to the Supreme Court and urges the European Commission to send the UK a Reasoned Opinion (a.k.a. final written warning) on NO<sub>2</sub> by February 2016. CAL also urges Parliament’s powerful Environmental Audit Committee to launch a fourth Air Quality Inquiry next week to scrutinise Defra’s plans and investigate how public health can be protected and NO<sub>2</sub> limit values can be achieved everywhere before 2020.

“Frankly, the only way to protect public health and comply fully with legal limits is to ban diesel from the most-polluted areas. Let’s do so positively, by encouraging positive measures such as active travel (e.g. walking and cycling) and triggering a massive shift to fewer, cleaner and greener vehicles. By doing so, the UK can be a world leader again as it was so successfully 60 years ago after banning coal burning in cities.

“Last but not least, CAL has found no convincing evidence in Defra’s consultation documents that the NO<sub>2</sub> annual limit value will be complied with in full in London by 2030 never mind 2025 (as Defra claims may be possible). CAL therefore invites all the Mayoral and London Assembly candidates to pledge support for Clean Air in London’s draft Clean Air Manifesto with a commitment to deliver full compliance with air pollution laws throughout London by 2020 not 2025 or 2030 as Defra and Boris Johnson propose.

“Defra’s plan it is simply not good enough. Exactly four years after it applied unsuccessfully for a time extension to comply with NO<sub>2</sub> limit values, Defra is still saying we need a national framework for low emission zones and that others must implement them.”

ENDS

## Notes

### 1. 38 of 43 UK zones expected to breach the NO<sub>2</sub> limit values still in 2015

#### London expected to breach the NO<sub>2</sub> limit value until 2030 (or 2025 with Defra's new plan)

Greater London

#### Seven UK zones expected to breach the NO<sub>2</sub> limit value until 2025 (or 2020 with new plan)

Eastern	Bedfordshire, Cambridgeshire, Essex, Hertfordshire, Norfolk, Suffolk
East Midlands	Derbyshire, Leicestershire, Northamptonshire, Nottinghamshire, Rutland
West Midlands	Herefordshire, Shropshire, Staffordshire, Warwickshire, Worcestershire
Nottingham	
Southampton	
South Wales	Newport, Port Talbot
West Yorkshire	Bradford, Huddersfield, Leeds, Wakefield

#### Compliant by 2020?

Belfast  
Birkenhead  
Bournemouth  
Bristol  
Cardiff  
Coventry/Bedworth  
Edinburgh  
Glasgow  
Greater Manchester  
Kingston upon Hull  
Leicester  
Liverpool  
North East  
North Wales  
North West and Merseyside  
Portsmouth  
Reading/Wokingham  
Central Scotland  
North East Scotland  
Sheffield  
Southend  
South East  
South West  
Swansea  
Teesside  
The Potteries

Tyneside  
West Midlands  
Yorkshire and Humberside

## **Compliant in 2015?**

Brighton/Worthing/Littlehampton

## **Compliant by 2015**

Blackpool  
Preston  
Highlands  
Scottish Borders  
Northern Ireland

## **2. CAL's draft Clean Air Manifesto for the Mayoral and London Assembly elections in 2016**

<http://cleanair.london/clean-air-manifesto-2016/>

## **3. Health**

<http://cleanair.london/health/official-air-pollution-killed-9400-londoners-in-2010/>

## **4. Legal action and time extensions**

### **ClientEarth's legal action and statement on 12 September**

<http://www.clientearth.org/news/latest-news/government-releases-air-pollution-plans-2969>

<http://cleanair.london/legal/major-victory-for-clientearth-enforcing-nitrogen-dioxide-laws/>

### **Clean Air in London calls for legal action and complaint**

15 January 2012

<http://cleanair.london/legal/clean-air-in-london-lodges-complaint-over-breaches-of-air-pollution-laws-in-london/>

28 September 2011

<http://cleanair.london/sources/four-of-nine-uk-zones-have-already-breached-nitrogen-dioxide-time-extension/>

4 August 2011

<http://cleanair.london/legal/government-fails-to-justify-time-extension-to-comply-with-eu-limit-values-for-nitrogen-dioxide/>

**5. 194 local authorities breached the NO<sub>2</sub> annual limit value in 2013**

<http://www.theyworkforyou.com/wrans/?id=2015-07-20.7932.h&s=pollution>

**6. European emission standards**

[https://en.wikipedia.org/wiki/European\\_emission\\_standards](https://en.wikipedia.org/wiki/European_emission_standards)

**7. Defra time extension application in September 2011 proposed a national framework of low emission zones**

<http://uk-air.defra.gov.uk/library/no2ten/>

**8. Urban access restrictions already in many cities across Europe**

<http://urbanaccessregulations.eu/>