

ON KNIGHTSBRIDGE ASSOCIATION LETTERHEAD

URGENT: DEFRA CONSULTATION CLOSES ON 11 JULY 2006

My reference: Transport/Defra/01/Website

Rt. Hon. David Miliband MP
Secretary of State
Department for Environment, Food and Rural Affairs
Nobel House
17 Smith Square
London SW1P 3JR

By post and email and also to: Eko Deinne, Air Quality Division, Defra

25 June 2006

Dear Secretary of State

The Air Quality Strategy for England, Scotland, Wales and Northern Ireland

EU Directive on ambient air quality and cleaner air for Europe COM (2005) 447

1. Response to Defra's consultation on air quality

I am writing on behalf of The Knightsbridge Association, which represents around 1,000 people and businesses in the area between Hyde Park Corner and Queen's Gate in Central London, to seek your commitment on behalf of HM Government to protect urgently local residents, local businesses and visitors (of which there are many) in and around the Brompton Road, Knightsbridge and Sloane Street area from high levels of air pollution from nitrogen dioxide (NO₂) and particulate matter (PM₁₀ and PM_{2.5}). Twelve (12) specific commitments are sought later in this letter.

I am also writing on behalf of The Knightsbridge Association in this letter to respond to the consultation document issued by the Department of Environment, Food and Rural Affairs (Defra) in April 2006 on options for improvement in air quality. For that reason, I am sending this letter jointly to Eko Deinne as The Knightsbridge Association's formal response to the Defra consultation. **We request respectfully that you reply personally please to this letter in your capacity as Secretary of State.**

The Knightsbridge Association understands that Defra plans to publish an updated Air Quality Strategy by the end of 2006. We encourage Defra to do so on the basis of current European legal limits (which the European Commission recommends should be retained) and to seek stronger, more flexible powers to implement a wide range of possible solutions and to press devolved and local authorities to deliver results. Only when a new EU Directive comes into force, which you expect in 2007, should Defra amend UK air quality objectives or limit values i.e. for PM_{2.5}. Otherwise, Defra will create confusion by trying to prejudge the outcome of hypothetical changes.

2. Support for the European Commission DG Environment draft Directive

This letter is timely since the European Council is expected to achieve political agreement on a common position on “Air Pollution: ambient air quality and cleaner air for Europe” tomorrow according to the European Parliament’s Legislative Observatory. We understand also that a probable part session of the European Parliament is scheduled by the Directorate General of the Presidency for a first reading of the draft European Union (EU) Directive COM (2005) 447 on 25 September 2006.

The Knightsbridge Association was pleased to receive a reply from the European Commission Directorate-General Environment (DG Environment) to our letter to Commissioner Stavros Dimas of 10 May, on which you were copied, confirming that the Commission is committed to allowing time extensions for compliance with air quality limits “only where Member States have made all reasonable efforts to comply and where any extension is linked to the implementation of a pollution abatement programme to ensure compliance by a later date”. Current EU legal limits are maintained (with new measures proposed for PM_{2.5} for compliance by 1 January 2010) and backstop dates are proposed. I urge you to go further and to:

- a) support, as a minimum, the Commission in its implementation of those proposals during the co-decision procedure and for its ultimate adoption as a new directive by the Council and the European Parliament;
- b) use UK legislation to ensure that efforts by devolved or local authorities to reduce air pollution by means that, in themselves, or in total cannot be shown, by consistent results over several years, to be able to achieve the EU legal limits on air pollution will never be considered to have made “all reasonable efforts” to achieve those limits e.g. the London Low Emission Zone may only reduce air pollution by say “15%” (on top of a similar amount from the extension of the Congestion Charge zone) when exceedances are multiples currently of the EU legal limits for air pollution. Otherwise, the general public faces the prospect of several years of half hearted measures from devolved and local authorities and predictable pleas from them in 2010 for special treatment;
- c) use UK legislation to ensure that “derogations” from current or future EU legal limits on NO₂, PM₁₀ or PM_{2.5} will always be rejected in areas where there are significant residential, business and/or visitor populations potentially exposed to the emissions for extended periods of time; and
- d) press for a shorter backstop date of three years (rather than the five recommended by the DG Environment or the 10 years suggested by the Committee of the Regions).

These are not facile requests. As the World Health Organisation (WHO) makes clear, this is a matter of life and death for many and quality of life for all.

3. World Health Organisation recommendations on air quality limits

The WHO made clear in its report in June 2004 “Health Aspects of Air Pollution” and its “Air Quality Guidelines Global Update” in October 2005 that NO₂ is associated with lung diseases and an increase in allergic reactions and that PM₁₀ affects the respiratory and cardiovascular systems, can worsen existing respiratory complaints and cause premature death (and can also carry carcinogenic compounds into the lungs). The WHO is clearly also very concerned about the long

term effects of PM_{2.5} since these small particles travel further into the lungs. We should not forget either that nitrogen oxides are precursors of ozone which the Encyclopaedia Britannica says is the most irritant gas known.

For these reasons, the European Commission has set legal limits for air pollution that meet WHO recommendations. For NO₂ and PM₁₀ these are an annual mean and hourly exceedance levels of: (i) 40µg/m³ and (ii) 200µ /m³ not to be exceeded more than 18 times per annum (by 1 January 2010); and (i) 40 µg/m³ and (ii) 50 µg/m³ not to be exceeded more than 35 times per annum (since 1 January 2005) respectively. HM Government has set interim objectives to be met with strict obligations on local authorities and others to work towards the EU legal limits.

NO₂ is toxic and its concentrations are often strongly correlated with other toxic pollutants. The WHO report in October 2005 (page 16) reported adverse effects on the health of children living in areas characterised by higher levels of NO₂ even when the overall level was low. This report went on to suggest that there are no safe levels for particulate matter for people of any age.

4. Air pollution in Brompton Road is many times higher than WHO safe levels

Air pollution levels in the wider Brompton Road area are regularly among the very worst in the UK. Although the current Air Quality Strategy consultation published by Defra refers only to Marylebone Road exceeding the Strategy's 1-hour objective in 2004, in fact Brompton Road in Knightsbridge also exceeded that objective in 2004 (by a staggering 14 times at 254 hours). So far in 2006, air pollution at the Brompton Road roadside monitoring site (with annual mean and exceedance levels of 100 µg/m³ and 221 times respectively i.e. 250% and more than 20 times on an annualised basis the WHO and EU limits) is almost identical to NO₂ levels at the Marylebone Road kerbside monitoring site (with annual mean and exceedance levels of 102 µg/m³ and 233 times respectively). Monitored levels of nitric oxide and oxides of nitrogen in Brompton Road are very substantially higher than the NO₂ levels. Furthermore, for much of 2006, Brompton Road has suffered from higher reported NO₂ air quality problems than Marylebone Road.

Local people have been shocked and surprised to discover the seriousness of the air pollution problem in the Brompton Road area. Worse still, in our view, the current air pollution monitoring site configuration is likely to understate substantially the air pollution problem in this area. The worst air pollution occurs around the top end of Sloane Street in an area surrounded by large buildings, where there are 12 incoming lanes of traffic (and effectively double that when exiting traffic is grid-locked) (compared to three and six respectively in Marylebone Road), whereas the monitoring station operated by The Royal Borough of Kensington and Chelsea (RBKC) is nearly 400 metres away at the (recently created) narrowest point in Brompton Road (i.e. where traffic volumes are lowest because there is only one eastbound lane and one westbound lane because of a bus lane and a bus stop on opposite sides of the road). We are concerned to note that "roadside" pollution monitoring stations (such as that in Brompton Road) are located, by definition, further from the traffic than "kerbside" monitoring stations (such as that in Marylebone Road) – which means that the air pollution results in Brompton Road are more extraordinary, serious and unacceptable.

The above data is available at www.londonair.org.uk which also shows graphs of NO₂, nitric oxide and oxides of nitrogen measured in parts per billion (ppb) (for which the comparable legal

limits are 105 ppb and 21 ppb i.e. roughly half the allowed $\mu\text{g}/\text{m}^3$ measures). Note that since 1 January 2006, breaches of the NO_2 limits have meant breaches of UK Air Quality Objectives (i.e. hourly exceedance objectives for the whole of 2006 were breached in Brompton Road within a few weeks of the year commencing and the annual mean level looks certain to be breached when the year ends by a factor of two or more).

We have no recent data for PM_{10} and other particulates in the Brompton Road area since the local pollution monitoring station was closed in November 2000 (after recording a peak of $\square\square\square\square\text{g}/\text{m}^3$ of PM_{10} on 5 October 2000 and exceedances of the $50\text{ }\mu\text{g}/\text{m}^3$ objective of 35 days per annum on 14 days in less than six months of 2000). We are concerned that particulate matter and ozone levels may also be unacceptably high in this area but we have no information, other than common sense and the facts above, to support this case. Urgent further local monitoring and sampling is needed.

The extent of the problem in the Brompton Road area, which has worsened noticeably in recent years, is not mentioned in the Defra consultation. Worryingly, we have found no references to it in Westminster City Council's (WCC's) Air Quality Progress Report 2005 despite their legal duty to work towards meeting the targets necessary to protect the residents, businesses and visitors to this area from exposure to this exceptional problem. RBKC's 2005 report referred to their Brompton Road monitoring site (as well as WCC's Marylebone site) but we have found no specific action measures targeted at this problem area. The impression is that this area has been largely ignored by those legally responsible for monitoring the problem and finding and implementing successful solutions. Not only have the UK authorities had no net positive impact, the position has got worse. The fact that the WCC/RBKC borough boundary goes down the middle of Brompton Road and close to Sloane Street is no excuse for allowing dangerous levels of air pollution to remain or deteriorate further.

5. Defra has been doing too little too late to highlight the day to day health risks

There has been far too little publicity about the real extent of the air quality problem. The debate is focused too narrowly on carbon dioxide emissions and climate change when the real picture is more complicated: there are multiple greenhouse gases not one and health issues (i.e. from street level emissions) are as serious for those living with them day to day as global atmospheric climate change effects. The WHO makes clear that people are expected to die from short term air pollution problems before they have a chance to suffer from longer term (equally serious) global warming problems.

Even your own national consultation exercise is almost unknown. In nearly three months, not one person I have mentioned it to was aware of the consultation before I raised it with them. Against that background, we are concerned that paragraph 134 on page 126 of the Defra consultation document says that evidence presented in the document will be used in negotiations with the European Commission, other European Member States and the European Parliament. As we explain below, the document materially understates and excludes relevant facts such as the extent of the problems in areas other than just Marylebone Road. In our view also, the formal questions posed in Defra's consultation do not facilitate easily balanced or complete answers. For that reason, and to avoid repetition and splitting the messages of our response, we have distilled our responses into key points which are also asked for as commitments from you on behalf of HM Government.

6. We are seeking urgently 12 commitments from Defra to improve air quality

Given the seriousness of the air pollution problem in the area of Brompton Road, Knightsbridge and Sloane Street, please confirm on behalf of HM Government that it is committed (as a minimum) to:

- i. establishing urgently a legally binding framework in the United Kingdom that acknowledges that “**unlimited and free access to clean air** of acceptable quality is a fundamental human necessity and right” and that “an unequal distribution of health risks over the population raises concerns of environmental justice and equity”. Both points are recommended by the WHO;
- ii. **acknowledging the need to accept as a minimum urgently the WHO advice for NO₂ and particulate matter** (i.e. both PM₁₀ and PM_{2.5}) as set out in its reports of 2004 and 2005 to a timetable no later than the tightest recommended by the European Commission’s DG Environment;
- iii. **broadening effectively the debate about air quality and emissions** to include the full range of greenhouse gases (from CO₂ to include others) and explaining that these cause problems both in terms of atmospheric climate change and health (i.e. due to street level emissions). For example, at least 20% of the climate change problems do not involve CO₂ and the position is more than reversed at street level;
- iv. **monitoring and measuring accurately**, in a timely manner, all breaches of the mean and hourly exceedances levels of the current UK objectives of air quality (for all the air quality strategy gases and particulate matter) using representative fixed sites supported by further sampling. Furthermore, please ensure that the data currently presented in the Defra consultation document is corrected to highlight properly Brompton Road (and perhaps other sites) as having air pollution problems that are as bad, or worse, than those in Marylebone Road. Otherwise, the impression is created of one only national exception. Please use also realistic, probability based forecasting, unlike in the past, and stop measuring air quality 400 metres from problem sites or away from the road in odd sites. An example of the last point is the pollution monitoring site in Cromwell Road which is actually buried in large bushes in the garden of The Natural History Museum;
- v. introducing immediately **a system of notifying the public** about actual or predicted mean and hourly exceedances where they breach the recommended alert level of 400µg/m³ for NO₂ (see Annex XII on page 53 of the draft Directive) with advice on recommended precautions to be taken by the population concerned and where to find further information. Please consider also the advantages of notifications at lower air pollution levels and ensure that the public is notified of relevant information, issues and reports. The DG Environment recommends that notifications should be made available free of charge by means of any freely accessible media including the internet;
- vi. **maintaining and enforcing the current UK air quality objectives** and EU legal limits (e.g. NO₂ and including PM₁₀) including the current timetable to meet them. This approach is consistent with DG Environment advice and plans as well as the current EU and UK legal framework. To change the UK’s stance on these objectives or limits based on hypothetical changes within the EU at a later date seems unnecessary, wasteful and confusing and would ignore the value of existing monitoring stations and historic data. Furthermore, with some correlation between PM₁₀ and PM_{2.5}, this action will reduce the PM_{2.5} fraction;
- vii. **recognising that the WHO and the DG Environment wish to move rapidly to additional**

- EU legal limits on $PM_{2.5}$ comprising a concentration cap of $25 \mu g/m^3$ (24 hour mean) by 1 January 2010 and an exposure reduction target to be met by 2020.** You may wish to issue guidance to be devolved and local authorities of the need inevitably to begin urgent monitoring of $PM_{2.5}$ and for them to consider measures that might be needed to achieve this limit. However, we would urge you not to move the “air quality legal goal posts” on the basis of what might happen in the EU in 2007 or later. We want no excuses for not meeting current limits at a later date;
- viii. **rejecting the possibility of allowing in the UK** in any circumstances (whether for five years as mentioned by the DG Environment or 10 years as proposed by the Committee of the Regions and published on 17 May 2006) any postponements of the Article 20 deadlines for compliance with air quality limits in areas where there are significant residential, business and/or visitor populations potentially exposed to the emissions for extended periods. As the DG Environment says, there should be tough penalties for non-compliance that are effective, proportionate and dissuasive if deadlines are not met. Furthermore, in respect of the UK generally, please commit to ensuring that onerous tests would need to be passed to justify that “all reasonable efforts” had been taken to comply with those limits. Please support, with the full weight of HM Government, the DG Environment in its efforts to enshrine this proposal in EU legislation during the co-decision procedure and for its ultimate adoption as a new directive by the Council and the European Parliament. In our view the backstop dates should be no longer than three years since longer periods would clash with further reviews of the EU limits;
- ix. **eliminating urgently air pollution (whether NO_2 , PM_{10} or $PM_{2.5}$) at the, so called, “hotspots”** where these have high population densities such as around Brompton Road, Knightsbridge and Sloane Street. The WHO dealt with this point specifically in 2004 (page 19) when it concluded that “the public health burden of exposures at hotspots may therefore be significant and regulatory efforts should also pay close attention to those areas”. The WHO made clear that people living close to busy roads experience more short-term and long-term effects of air pollution than those living farther away. Annual mean pollution levels are important for residents and local business people and hourly exceedances levels matter greatly to them and visitors (such as the large number of shoppers visiting the Brompton Road and Sloane Street area). The suggestion in the Defra consultation document (page 115) that the health benefits of reducing air pollution in an area already within EU recommended limits by $1 \mu g/m^3$ for 10 million people is 100 times greater than reducing the exposure of 10,000 people by $10 \mu g/m^3$ in a hotspot defies belief. It is contrary to the laws of environmental justice that serious health risks should be allowed to persist on any grounds for many people in hotspots in the UK when they would not be acceptable elsewhere. Surely HM Government and others can “walk and chew gum” when it comes to air quality and people’s lives and obtain general improvements while also eliminating the problems in hotspots. Please note that the Council of the Regions has emphasised the importance of any measures that “give priority to areas in which many people are exposed to excessively high concentrations of air pollution (e.g. residential areas)”;
- x. **rejecting the cost based exposure reduction approach** in respect of air quality unless it is combined always with a meaningful concentration cap (with a tight timescale for implementation) and an unambiguous approach to environmental justice and human rights as highlighted under “hotspots” above. In case you do not share our alarm on this subject, we urge you to read pages 115, 116, 131 and 132 in the Defra consultation report. It is totally unacceptable to propose, as the consultation document does on page 132,

“removing extremely challenging objectives (which could not be met in a cost effective way) and substituting them with new objectives [for particulate matter and perhaps other objectives in due course] able to deliver health improvements at lower costs to society at large, including businesses”. It is like saying that “the United Nations should send one policeman to a war zone to save one life instead of sending an army of peace keepers to save thousands”;

- xi. **establishing an unambiguous legislative framework in the UK of clearly specified goals, powers, responsibilities and obligations, with meaningful economic incentives to meet them** (e.g. NO_x emissions trading as Commissioner Dimas suggested recently), which will allow HM Government and the devolved and local authorities to implement with urgency a wide range of innovative and flexible solutions to meet unmovable, fixed, air quality limits. As Alistair Darling said last year, solutions in cities are most likely to come from reducing congestion and reducing vehicle emissions. Furthermore, please do not let your officials persist with ridiculously low ex-ante estimates of health benefits (which get little more than two paragraphs of mention in 176 pages) and high estimates of ex-ante costs for solutions when the experience of the last 15 years following electricity privatisation (e.g. with sulphur dioxide from power station emissions) tells us that if political commitment is there, supported by appropriate incentives to deliver results, that innovative and cost effective solutions will be found quickly; and
- xii. **HM Government, the devolved authorities and the local authorities producing, publishing and updating annually credible integrated, holistic (and reconciled) plans and implementing measures that are at least likely in the round to meet or beat the air quality targets** in the next 3 ½ years or earlier if required (with a margin of error to protect the general public from emissions). You may need to place this obligation on intermediate authorities in order to avoid problems falling between two boroughs as might happen between RBKC and WCC across the boundary along Sloane Street and Brompton Road. These results should be published at least annually within six months of each calendar year end. Sensibly, this effort should also be used to build a national (and publically accessible) knowledge base of best practice of measures to address air quality problems in the local areas, across the UK and the EU. It would be more credible if these were reviewed and audited independently by the Environment Agency within three further months. A good discipline would involve the general public being able to access easily regular reports that show quantitatively in overall terms (i.e. reconciled to meet the UK objectives and legal limits), the full extent of the air quality problem(s), its causes, the results achieved in the previous year, the expected impact of planned solutions and other relevant information.

The Knightsbridge Association asks you to commit to a vision of clean air for people.

7. Process

In our view, the top priorities to improve air quality locally should be to:

1. obtain political commitment to the meeting urgently of the current WHO targets (as already in EU law) and establish a tough regime of enforcement;
2. establish comprehensive and representative monitoring with accurate measurement of the full problem locally in all problem areas;
3. ensure transparent and easily accessible reporting with a system of alerts;
4. understand the precise causes of the NO₂ and particulate matter (whether PM₁₀ or PM_{2.5})

- air pollution in the local area e.g. vehicle types, times of day, non- vehicle causes etc;
- involve amenity societies as consultees, not initiators, in assessing solutions that are expected to meet the legal limits; and
 - seek the successful implementation of a package of effective measures likely to achieve the results needed by 1 January 2010 (and monitor progress).

Tough legal measures that bind all devolved and local authorities on air quality limits (when backed by determined enforcement action) will be crucial if residents, businesses and visitors to the Brompton Road, Knightsbridge and Sloane Street area are to experience substantial reductions in the current, wholly unacceptable, levels of air pollution. We have copied senior political figures in the main parties and sincerely hope that they will take a lead with you in driving forward improvements in local air quality.

Separately, I would add that your personal blog (accessible via the Defra website), on which I included a comment on 22 June, is a very welcome initiative.

I have copied interested parties and look forward to hearing from you.

Yours sincerely,

Simon Birkett
Chairman
Transport Committee

Cc: Mr Stavros Dimas, The Commissioner for the Environment DG
Marianne Klingbeil, Head of Unit, Env. C. 3 – Clean Air & Transport
Mr Peter Ainsworth MP, Shadow Secretary of State, Defra
Rt. Hon. Douglas Alexander MP, Secretary of State, Department for Transport
Mr John Ashton, Special Adviser on Climate Change
Rt. Hon. Margaret Beckett MP, Foreign Secretary
Mr Alistair Carmichael MP, Shadow Secretary of State for Transport
Mrs Gwyneth Dunwoody MP, Chairman of the Transport Committee
Mr Mark Field MP
Mr Chris Grayling MP, Shadow Secretary of State for Transport
Mr Zac Goldsmith
Rt. Hon. John Gummer MP
Mr Chris Huhne MP, Shadow Environment Secretary
Ms Jean Lambert MEP, Green Party
Rt. Hon. Sir Malcolm Rifkind QC MP
Mr Ken Livingstone, The Mayor of London
Councillor Sir Simon Milton, The Leader of the Council, City of Westminster
Councillor Merrick Cockell, Leader of the Council, The Royal Borough of Kensington and Chelsea
Councillor Frances Blois
Councillor Tony Devenish
Councillor Philippa Roe
Councillor Dr Iain Hanham

Councillor Margot James

Councillor Mrs Shireen Ritchie Charles Elphicke

Mr Martin Low, Director of Transportation

Mr Mike Stroud, Executive Director for Transport, Environment and Leisure Services

London Low Emission Zone Consultation Team