

## Report of the Portfolio Holder for Environment and Climate Change

**REVIEW OF SMOKE CONTROL AREAS AND APPROVAL OF SMOKE CONTROL POLICY 2023**1. Purpose of Report

To advise Members of the proposals to review the Smoke Control Order areas within the Borough and introduce a policy for the enforcement of these Orders.

2. Recommendations

The Policy Overview Working Group **RECOMMENDS** to Cabinet to **RESOLVE** that:

1. **an Order revoking older smoke control orders be made, which will be subject to public consultation and confirmation by the Secretary of State.**
2. **after public consultation, the expiry of relevant objection periods and Secretary of State confirmation, a new borough-wide smoke control order be approved.**
3. **that the policy on enforcement of smoke control orders be approved.**

3. Detail

Smoke control orders were originally introduced by the Clean Air Act 1956 following the high number of deaths that had occurred during London smog episodes. Now replaced by the Clean Air Act 1993, local authorities can make orders so as to identify and designate land as a smoke control area, meaning that restrictions then apply to all premises within that area to prevent smoke being emitted from appliances or fuel.

In an area subject to a smoke control order, it becomes an offence to:

- allow smoke emissions from the chimney of a building;
- obtain and use solid fuel, other than authorised fuel; and
- sell by delivering solid fuel, other than authorised fuel, to premises located within the Smoke Control Area.

The majority of the Borough is covered by 21 Smoke Control Orders which were made between 1960 and 1982. It is unlawful to emit smoke from a chimney in a Smoke Control Area and so smokeless fuels should be used. Alternatively, wood, timber or logs may be used in a [DEFRA approved stove](#).

Some areas and newer developments are not covered by the Order, such as parts of Bilborough where the houses were built after the original Smoke Control Orders were enacted. The Borough boundaries have also changed since the original Smoke Control Orders were introduced resulting in some ambiguity and there is a general lack of public awareness of the existing smoke control area

rules given the time that's passed since they were introduced. Many living in areas already covered by smoke control areas are not aware so are using unauthorised fuels and appliances. More recently there has also been a considerable rise in those installing log burners and therefore there is a greater need to educate residents.

The aim of a smoke control area is to improve local air quality, by limiting the amount of smoke which can be emitted from both domestic and industrial chimneys. Revoking the 21 different smoke control orders and replacing it with a single smoke control area covering the whole of the Borough will make it simpler to understand, easier to enforce and to help us protect the air quality across the whole of the Borough and support our aim of reducing carbon emissions to tackle climate change.

Between the 1970s, 1980s and 1990s, coal use in domestic combustion was the largest source of particulate matter emissions but by 2021, coal accounted for a very small proportion of PM2.5 emissions (13%), while the use of wood as a fuel accounted for 75%.

Emissions of PM2.5 from domestic wood burning increased by 124% between 2011 and 2021, to represent 21% of total PM2.5 emissions in 2021. The Department for Environment and Rural Affairs (Defra) has reported that wood and coal fires are the single biggest source of PM2.5 pollution in the UK accounting for 27 per cent of PM2.5 emissions. Most emissions from this source come from households burning wood in closed stoves and open fires. This is not widely known by residents.

PM2.5 is considered a particularly harmful pollutant and has been identified by the World Health Organization as the most damaging to human health. These tiny particles are able to travel deep into the respiratory tract leading to numerous health conditions including asthma, lung cancer, cardiovascular disease, dementia and pregnancy loss.

Long term benefits from agreeing to the recommendations will be a reduction in the quantity of PM2.5 produced in the Borough, resulting in cleaner air and health benefits to those who live and work in the Borough.

Where smoke is emitted from a chimney in a smoke control area, the Council can issue a financial penalty of between £175 and £300 to the responsible person. A policy on enforcing the provisions is required and the proposed policy is attached for approval (appendix 3). The introduction of a policy on enforcement of the provisions in Smoke Control Areas will give us the tools to tackle those whose smoke has an unacceptable impact on others.

The Council have completed an initial consultation to revoke the existing Smoke Control Orders and replace these with a single Smoke Control Order covering the whole of the Borough. Consultation took place via advertising in Beeston News, East and Kimberley Advertiser, London Gazette, social media and liaison

with affected parties. A total of 105 responses were received and an analysis of the comments received is included in appendix 4. In summary 82% of respondents supported the proposals to control harmful air pollutants, 70% of respondents thought air quality was important or very important and 67% of respondents supported the proposals to review the Smoke Control Areas.

The Council did consult on whether to bring moored vessels to within the scope of this policy however the consultation responses did not support this. On reflection, and due to the low numbers of moored vessels present within the Borough, and to prevent undue financial hardship, the Council do not propose to progress this.

#### 4. Financial Implications

The possible income from the enforcement of the policy is not expected to be significant. Income received will be used for the purposes of supporting Environmental Health enforcement.

The comments from the Head of Finance Services were as follows:

There are no additional financial implications for the Council, with enforcement action being within existing resources. It is likely that only nominal income will be generated from issuing civil penalties. The Council has received a New Burdens funding payment and this will be used to cover the costs of publicising, reviewing existing smoke control areas and the training of officers.

#### 5. Legal Implications

Smoke Control Orders can only be varied or revoked by the making of another Order. Accordingly, this report seeks authority to make a revocation Order revoking all the existing Orders. The decision whether to confirm the revocation order will be made by the Secretary of State following a further public consultation. A copy of the draft Revocation Order is included at appendix 1. If the Secretary of State confirms the Revocation Order the earliest it can come into operation is six months from the date of confirmation.

Any objection to the revocation of one or more of the existing orders detailed in the Schedule to the Order must be made to the Secretary of State (DEFRA) who will consider the objection and make a determination whether to confirm the Revocation Order with or without modification.

This report also proposes that the Council make a smoke control order to declare the whole of the borough a smoke control area. A copy of the draft Order is included at appendix 2.

Members are asked to approve the Broxtowe Borough Council Smoke Control Orders (Revocation) Order 2023 and to the making of the Broxtowe Borough Council Smoke Control Order 2023 once revocation is approved by the

Secretary of State. The new smoke control order will come into effect not less than six months from the date of making.

6. Human Resources Implications

There were no comments from the Human Resources Manager.

7. Union Comments

There were no union comments.

8. Climate Change Implications

The comments were as follows:

Approval of a new borough-wide smoke control order supports the ambition of the Council to become carbon neutral by the end of 2027 by:

- Supporting a shift from non-renewable heating sources such as wood burning stoves to renewable energy sources.
- Having a beneficial effect on air quality, by reducing harmful pollutants released into the atmosphere.

9. Data Protection Compliance Implications

This report does not contain any (SENSITIVE) information and there are no Data Protection issues in relation to this report.

10. Equality Impact Assessment

As there is a change to policy an equality impact assessment is attached.

11. Background Papers

None.