|  | **WESTBERE PARISH COUNCIL**  **Clerk: Amanda Sparkes**  **7 Beech Tree Avenue, Sholden, Deal CT14 0FB**  **Tel: 01304 365972 Email: amanda.sparkes@sky.com** |
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Dear Angela

**High Court Ruling “Air Quality” for the Canterbury District Local Plan and local developments**

Westbere Parish Council thanks Canterbury City Council for the opportunity to consider the High Court of Justice Queens Bench Division Administrative Court’s recent important decision (see **Case No: CO/1508/2016** before Mr Justice Garnham, dated 02/11/2016) concerning Air Quality Plans. In considering this decision, we wish to make the following pertinent points regarding the Canterbury District Local Plan:

1. In compliance with CCC’s obligation to assess the air quality within its administrative area, a completely new assessment should take place with immediate effect and all previous pollution data submitted or already on file should be discarded. The reason for so doing is that past assessments have been made in compliance with DEFRA’s input, and a court order is now in place quashing the government’s 2015 Air Quality Plan.
2. In order to assist DEFRA to comply with the Court’s conclusions, CCC should provide local air pollution data

* as quickly as possible
* with *likely* value limits, as defined in the Court’s decision
* based on what the Court also refers to as data reflective of the ‘real world’.

1. Only that new, more accurate and reflective air pollution data should be used when considering current and future plans for development within CCC administrative area.

To support these points we submit extracts from Mr Justice Garnham’s Conclusions and the last Environmental Statement in support of the Hoplands Farm planning application (CA/16/00404/OUT - Hoplands Farm, Island Road - Outline planning application for a neighbourhood extension for the creation of up to 250 houses etc)

These extracts demonstrate the information that has shaped our recommendations.

***From* the Court’s Conclusions**

1. For the reasons set out above I conclude:
   * i)  that the proper construction of Article 23 means that the Secretary of State must aim to achieve compliance by the soonest date possible, that she must choose a route to that objective which reduces exposure as quickly as possible, and that she must take steps which mean meeting the value limits is not just possible, but likely.
   * ii)  that the Secretary of State fell into error in fixing on a projected compliance date of 2020 (and 2025 for London);
   * iii)  that the Secretary of State fell into error by adopting too optimistic a model for future emissions; and
   * iv)  that it would be appropriate to make a declaration that the 2015 AQP fails to comply with Article 23(1) of the Directive and Regulation 26(2) of the Air Quality Standards Regulations 2010, and an order quashing the plan.

***From* the Hoplands Farm Environmental Statement**

**Local Air Quality Management (LAQM)**

8.51 Part IV of the Environment Act 1995 also requires local authorities to periodically Review and Assess the quality of air within their administrative area. The Reviews have to consider the present and future air quality and whether any air quality objectives prescribed in Regulations are being achieved or are likely to be achieved in the future.

8.52 Where any of the prescribed air quality objectives are not likely to be achieved the authority concerned must designate that part an Air Quality Management Area (AQMA)

8.53 For each AQMA, the local authority has a duty to draw up an Air Quality Action Plan (AQAP) setting out the measures the authority intends to introduce to deliver improvements in local air quality in pursuit of the air quality objectives. Local authorities are not statutorily obliged to meet the objectives, but they must show that they are working towards them.

***From the* Canterbury Draft Local Plan**

8.64 Policy QL11 of the Canterbury Draft Local Plan (Ref 8.10) states that:

1.   *‘Development that could directly or indirectly result in material additional air pollutants and worsening levels of air quality within the area surrounding the development site will not be permitted unless acceptable measures have been taken as part of the proposal’*; and
2.   ’*Sensitive development (such as housing) will not normally be permitted in Air Quality Management Areas unless mitigation measures are incorporated*.’

**BASELINE CONDITIONS Canterbury City Council Review and Assessment of Air Quality**

8.65 Canterbury City Council (CCC) carries out frequent review and assessments of air quality within the area and produces updating and screening assessments and progress reports in accordance with the requirements of DEFRA.

8.66 The centre of Canterbury and a number of major arterial roads into the city have been declared as an AQMA for NO2 due to high levels of traffic congestion and predicted exceedences of the short and long-term air quality objectives.

8.67 The AQMA is located approximately 4.6km southwest of the application site and includes the A28, which will be affected by traffic associated with the Proposed Development.

8.68 The latest review and assessment report produced by CCC is the 2014 Progress Report Ref 8.11), which contains local air quality monitoring data up to 2013. Monitoring data for 2014 and 2015 is available from the Kent Air Quality Network website www.Kentair.org.uk).

**Nitrogen Dioxide (NO2)**

8.69 Automatic monitoring of NO2 concentrations is currently undertaken at five locations in Canterbury. Four of the sites are at roadside locations, but just one, Military Road (CM3), is on the A28 and considered relevant to the assessment. Urban background NO2 concentrations are measured at Chaucer Technology School (CM1), approximately 6 km southwest of the Proposed Development. The background site is affiliated to Defra’s Automatic Urban and Rural Network (AURN) and is subject to high levels of quality assurance and control.

In conclusion, Westbere Parish Council's previous representations have consistently drawn CCC's attention to the expanding medical evidence of the dangers of air pollution to human health and the parish council believes the Court's decision supports their representations and reinforces them.

Yours sincerely

Amanda Sparkes

Clerk to the Council