

To: Cabinet
Date: 13 September 2023
Report of: Head of Corporate Strategy
Title of Report: City-wide Smoke Control Area Declaration

Summary and recommendations	
Purpose of report:	To seek approval of plans for the creation of a City-wide Smoke Control Area in Oxford
Key decision:	Yes
Cabinet Members:	Councillor Anna Railton, Cabinet Member for Zero Carbon Oxford and Climate Justice
Corporate Priority:	Pursue a Zero Carbon Oxford, Support Thriving Communities
Policy Framework:	Council Strategy 2020-24
Recommendations:	That Cabinet resolves to:
	<ol style="list-style-type: none"> 1. Approve plans to revoke Oxford’s existing 23 Smoke Control Orders and replace them with a single Smoke Control Order across the whole city, subject to the outcome of consultation and confirmation by the Secretary of State; and 2. Subject to the outcome of the public consultation and confirmation by the Secretary of State, to delegate authority to the Head of Corporate Strategy in consultation with the Cabinet Member for Zero Carbon Oxford and Climate Justice and the Head of Law and Governance, to make the order.

Appendices	
Appendix 1	Map of the 23 existing Smoke Control Areas
Appendix 2	Relative PM _{2.5} emissions from domestic heating methods
Appendix 3	Risk Assessment

Executive summary

1. The purpose of this Cabinet report is to bring forward a proposal to revoke all of Oxford's existing 23 Smoke Control Orders currently covering a large part of the city, and to replace them with a new single Order declaring the whole of the city a smoke control area.
2. Smoke Control Areas (SCAs) were first introduced under the Clean Air Act 1956 to restrict coal burning following several bad smog events. SCAs are still relevant today due to the rise in popularity of solid fuel burning appliances (such as wood and coal wood stoves), and their significant contribution to fine particulate emissions (PM_{2.5}).
3. There are 23 active SCAs within the city of Oxford, declared in the period since 1958. However, these only currently cover 48% of the land area of the city – albeit the majority of residential premises. Please see Appendix 1 for a map of existing smoke control areas in Oxford.
4. The benefit of this proposal is to reduce the risk of harmful emissions from uncontrolled burning of solid fuels from open fireplaces and non-approved stoves and indoor burners in areas of Oxford currently not covered by SCAs.
5. The proposal will ensure consistency, minimise confusion and raise awareness of controls in place for the burning of solid fuels across the city. It will also help to raise awareness of the health impacts of burning solid fuel.
6. Before the new SCA can be declared a statutory consultation process will be required (see section 8 below). A public awareness campaign (building on Oxford City's [Do you Fuel Good?](#)) will be carried out alongside this process, to ensure that residents are aware of any implications for them.

Background

7. The use of solid fuels for domestic heating usage in open fires, indoor burners and stoves has risen in the last decade, it is believed due to rising fuel prices and the level of comfort they provide.
8. According to DEFRA's [latest](#) data:
 - Domestic combustion is a major source of particulate pollution (PM₁₀ and PM_{2.5}) in the UK, accounting for 16 per cent of total PM₁₀ emissions and 27 per cent of total PM_{2.5} emissions in 2021, with most emissions from this source coming from households burning wood in closed stoves and open fires.
 - Over the last decade alone (from 2011 to 2021), emissions from fine particulate pollution (PM_{2.5}) from domestic wood burning increased by 124 per cent in the UK.
9. Several [research](#) studies now indicate how harmful particulate pollution emissions from the use of solid fuels at home are to human health: they increase pollution levels inside people's homes (as these pollutants are released into the air when materials are burned), and contribute to an overall increase of air pollution levels in urban areas.
10. PM_{2.5} is considered a particularly harmful pollutant regarding human health. The tiny particles involved can travel deep into the respiratory tract leading to numerous health conditions including asthma, lung cancer, cardiovascular disease, dementia and pregnancy impairment.

11. In September 2021, [new WHO guidelines](#) were published, establishing a more stringent set of concentration limits (called Guideline Values) for particulate pollution (PM₁₀ and PM_{2.5}). This was a result of clear new evidence of the harmful health effects of particulate pollution at levels below the legal air quality standards, previously considered to be safe.
12. The picture in Appendix 2, was obtained from the Chief Medical Officer's Annual [Report](#), and shows the comparative amounts of PM_{2.5} emissions from various domestic heating methods per unit of energy derived, including open fires and non-Defra approved stoves. Both of these are covered by the SCA legislation under this proposal.

Policy context and contribution to Oxford City Council's strategic aims

13. The Environment Act 2021 established a legally binding duty on central government to bring forward at least two new national air quality targets in secondary legislation. The air quality targets (set for fine particulate pollution - PM_{2.5}) under the Act are:
 - Annual Mean Concentration Target - a maximum concentration of 10µg/m³ to be met across England by 2040.
 - Population Exposure Reduction Target- a 35% reduction in population exposure by 2040 (compared to a base year of 2018).
14. As a local authority, Oxford City Council has a statutory duty to set out air quality measures to bring its local areas into compliance with national air quality targets, and to take preventative action.
15. The City's current [Air Quality Action Plan 2021-2025](#) outlines the list of actions that the Council and its partners are taking to improve air quality in Oxford. Measure 22 of the Plan is Oxford City Council's commitment to "*Review of Smoke Controlled Zones and implementation of revised government legislation for smoke nuisance*".
16. In 2019 Oxford City Council [declared](#) a Climate Emergency and held the Oxford Citizens' Assembly on Climate Change. The clear message from citizens was that they want the city to continue to take a lead in reducing carbon emissions and increasing biodiversity in Oxford.
17. The actions contained in this report contribute to the delivery of two of Oxford City Council's corporate priorities:
 - To Pursue a Zero Carbon Oxford - Zero Carbon Oxford is the goal for Oxford to achieve zero carbon emissions across the city as a whole by the year 2040. This proposal would reduce carbon dioxide being emitted into the atmosphere by encouraging more efficient combustion, thereby improving air quality and helping fight climate change.
 - Support Thriving Communities - UK [wood suppliers](#) have reported an unprecedented surge in demand for logs, briquettes and other biomass products as households try to minimise the impact of rising energy bills. This resurgence in burning wood can exacerbate air pollution and damage people's health. This proposal includes awareness raising to help residents make informed choices including about the correct appliances and fuels to be used and extends Smoke Control Area controls City-wide.

Current Smoke Control Area Legislation

18. Under the Clean Air Act 1956, Local Authorities can designate [smoke control areas \(SCAs\)](#).
19. In a Smoke Control Area (SCA) it is an offence to emit smoke from a chimney of a building or from a chimney serving the furnace of any fixed boiler or industrial plant within the area unless using an appliance on the Department Environment Food and Rural Affairs (DEFRA) [exempt list](#) or using an [authorised fuel](#).
20. Exemptions apply to the use of outdoor barbecues, chimineas, pizza ovens or garden bonfires (as long as the specific [rules](#) on bonfires are followed).
21. The Environment Act 2021 (EA21) changed some of the controls which apply in SCAs. Previously, the Criminal offence of emitting smoke from a chimney is now subject to a Civil Penalty. Fixed Penalty Notices of between £175 and £300 may be applied to these offences. Officers in the Regulatory Services and Community Safety Service Area have reviewed and implemented these changes, which apply in areas covered by the existing SCAs.

The current situation in Oxford City and local supporting evidence

22. According to the city's latest air pollution source apportionment [study](#), the domestic combustion sector alone (i.e. all the combustion of fossil fuels and biomass in residential appliances, usually for heat generation), is responsible for 66%, 48% and 19% of all the city PM_{2.5}, PM₁₀ and NO_x emissions respectively.
23. According to the [Public Health Outcomes Framework](#), 5.52% of deaths from all causes in those aged 30+ are attributable to PM_{2.5} alone in Oxford, with the city also performing [worse](#) than all the other Districts in Oxfordshire in parameters such as fraction of mortality attributable to particulate air pollution.
24. The city's latest air quality annual status [report](#) (published on the 15th June 2023), show that PM_{2.5} levels are slightly above the current recommended WHO guidelines (in the areas where this pollutant is measured in the city).
25. In October 2022 Oxford City Council launched (the city-wide awareness raising campaign "[Do You Fuel Good?](#)", in partnership with Oxford Friends of the Earth and the Canal & River Trust, to educate and inform people who use wood burning stoves and open fires on the harms they cause, and ways to reduce the impact of their usage.

The proposal

26. There are currently 23 SCAs in Oxford, declared in the period since 1958, but these cover only around 48% of the geographic area of the city. Several residential areas of the city including north Oxford (from Summertown up to Wolvercote), Rose Hill, Littlemore, New Headington, Old Marston, and parts of the Temple Cowley falls outside the current SCAs.
27. It is proposed to declare the whole city of Oxford a Smoke Control Area by issuing a single Smoke Control Order using the process contained in Clean Air Act 1993 Schedule 1. This Order will revoke and replace the original 23 Orders issued previously.
28. This is expected to:
 - Ensure consistency in legal restrictions on burning solid fuel and the type of equipment that can be used.

- Help support and streamline the enforcement of the clean air and domestic fuel legislation by encouraging an effective and holistic approach to tackling smoke pollution.
- Improve general communication and awareness raising about wood burning emissions with residents, and in particular to reinforce the messages underpinning the Council's [Do You Fuel Good?](#) campaign.
- Be a catalyst for positive behavioural change.
- Lead to a reduction in particulate pollution across the city (including in areas which already are covered by SCA legislation), given that particulate pollution can travel long distances and hence affect larger areas.
- Reduce the amount of cardio-respiratory hospital admissions and bring general long term health improvements of all the city residents and visitors.

29. The council will run a formal consultation process to inform the roll out of the proposal and ensure that residents are informed of the proposed changes and what they would mean for them.

Other options considered

30. To revoke all Smoke Control Orders and not replace and therefore have no restrictions. This option would go against the Council's objectives in relation to climate change and air quality.

31. To leave the 23 Smoke Control Areas in place covering only 48% of the city. This would fail to address inconsistencies and inequalities across the city and potential confusion for residents. This approach would also not be progressive in improving air quality in Oxford.

32. It is recommended that the best course of action to enable the health benefits from cleaner air to be realised is to declare a citywide Smoke Control Area.

33. Moored vessels will not be subject to the citywide SCA proposed as there is a separate regulatory framework which covers this. The Council might decide to bring moored vessels into a future expansion of the SCA, but this would be subject to a separate public consultation exercise.

Public Consultation

34. There is a statutory consultation process for the declaration of new SCAs.

35. The City Council intends to use social and local media to further publicise the declaration and provide clarity on the rules of SCA. The Council also intends to use part of the remaining DEFRA Air Quality Grant funds that were used to launch Oxford City Council's [Do You Fuel Good?](#) campaign to do further publicity on the new SCA.

36. Any objections received must be considered during the consultation process. If any objections are received and not withdrawn, the Council cannot make the order without first considering the objection. At the end of the consultation period the Secretary of State is empowered to confirm the order with or without any modifications. It is proposed that the Head of Corporate Strategy will deal with these objections under the auspices of the proposed delegation in this report. If the responses to the consultation reveal issues which are substantial in their implications for the objectives outlined in this report, or significant unforeseen impacts for residents, then the Head of Corporate Strategy will refer the matter back to Cabinet for further determination.

37. If the Council resolves to make the new smoke control order, it cannot come into effect earlier than 6 months from the date of making. This date may be postponed, subject to a resolution to that effect being passed and suitable publicity in line with that set out in the legislation (Schedule 1, Clean Air Act 1993).

Climate Change/Environmental Impact

38. The proposal aims to improve local air quality by introducing better control of solid fuel burning that contributes to up to 47% and 66%% of local particulate pollution (PM₁₀ and PM_{2.5} respectively).

39. This proposal will encourage people not to burn solid fuel from unsustainable sources. It aligns with Oxford City Council's recent "[Do You Fuel Good?](#)" wood burning campaign, and contributes to the City Council's plan to reach to a net zero carbon Oxford by 2030.

40. The Climate Impact Assessment toll shows an overall rating of low positive due to the reduction of burning of unsustainable sources of solid fuel that this policy is expected to introduce. Any other climate related impacts are considered negligible.

41. With a revival in the popularity of 'real fires' there are a number of solid fuel burning stoves in the market that already comply with the legislation, and many already in use across Oxford are likely to be compliant.

42. There is growing public awareness surrounding the impact and harm caused by burning solid fuels and a desire to improve local air quality. This report, and the need to modernise the smoke control orders, reflects this and provides the council with an opportunity to encourage responsible use of solid fuel burning appliances in domestic properties inside the city boundaries.

Financial implications

43. The expansion of current smoke control area legislation presents no immediate and/or significant financial implications for the Council, besides officer time in setting up the new order, advertising the new order and providing publicity around it. The work will be delivered by existing staff and under existing work programmes.

44. Publicity will predominantly be online using social media and the Council's website, but the Council will also use the remaining funds of the air quality DEFRA grant that was used to launch its [Do You Fuel Good?](#) campaign to support this work and raise awareness of what this means to the residents who live in the affected areas.

45. The enforcement teams within Regulatory Services and Community Safety that currently deal with smoke nuisance within Oxford City Council's jurisdiction are expected to see a small increase in complaints with this proposal, though use of effective awareness-raising messaging should also limit the number of spurious complaints.

46. Operationally any enforcement will be managed within the existing teams' budgets. In common with all other English local authorities, Oxford City Council's enforcement teams have received an annual New Burdens grant from DEFRA of £11,710 per year (secured for the next 3 years). This will support enforcement of the new SCA legislation, including in the proposed wider area subject to this proposal.

Legal issues

47. The Council has discretion under Section 18(2A) of the Clean Air Act 1993 (the Act) whether to declare the whole, or any part of its area to be a smoke control area; by a smoke control order.

48. A smoke control order:

- (a) may make different provision for different parts of the smoke control area;
- (b) may limit the operation of section 20 (prohibition of emissions of smoke) to specified classes of building in the area; and
- (c) may exempt specified buildings or classes of building or specified fireplaces or classes of fireplace in the area from the operation of that section, upon such conditions as may be specified in the order.

and the reference in paragraph (c) to specified buildings or classes of building include a reference to any specified, or to any specified classes of, fixed boiler or industrial plant.

49. A smoke control order may be revoked or varied by a subsequent order.

50. Schedule 1 to the Act sets out the procedure which the Council must follow to make an Order, including publicising its intention to make an order and how objections may be made. If any objections are received and not withdrawn, the Council cannot make the order without first considering the objection.

51. Once any objections have been considered, if the delegation is approved, the Head of Corporate Strategy will authorise confirmation of the order. New orders must then be considered by and confirmed by the Secretary of State with or without modification.

Timetable for Implementation

52. There is a statutory consultation process (see section 8) which can commence once approval is given. The statutory consultation period is a minimum of 8 weeks (2 weeks of notices published in the London Gazette followed by 6 weeks of the plan being available for public inspection).

53. If any objections are received within that period they must be considered, which is likely to add time to making the order.

54. After the Council resolves to make the new smoke control order it cannot come into effect earlier than 6 months from the date of making. This date may be postponed, subject to a resolution to that effect being passed and suitable publicity in line with that set out in the legislation (Schedule 1, Clean Air Act 1993).

55. This means that it would take a minimum of 8 months for an order to come into effect, but realistically could take longer due to the administration involved in the process.

Level of risk

56. A risk assessment is attached at Appendix 3.

Equalities Impact

57. Air pollution particularly affects the most vulnerable in society: children and older people, and those with heart and lung conditions. Older people have around twice the level of risk of hospitalisation and death associated with poor air quality and babies and children are also particularly vulnerable. People with pre-existing asthma or chronic obstructive pulmonary disease (COPD) are very vulnerable to air pollution. Similarly, obese people (children in particular) are also at risk. The proposal may therefore have a differentially positive impact on these groups.
58. There is also often a strong correlation with equalities issues because areas with poor air quality are often less affluent areas. Whilst the areas of deprivation do not tend to correlate with areas of high pollution in Oxford, this does not mean that air pollution does not disproportionately impact some of the most vulnerable members of our community in those areas, such as those from minority backgrounds, the young, old and those experiencing health issues. Poor air quality affects people in different groups differently. Minority groups and low-income households might be disproportionately impacted by poor air quality.
59. This proposal will reduce the level of inequalities in the city (in its broadest sense), as currently there are residents who are allowed to burn whatever they want in their homes as they do not have to obey to specific SCA legislation, and there are others who have, as they live inside a SCA – with the introduction of a single SCA covering the entire city, everyone would have to obey the same rules and would therefore see the same benefits.
60. Due to the cost-of-living crisis more people are believed to have turned to burning solid fuel for heating. The introduction of a city-wide SCA would therefore affect more people than it would otherwise, potentially requiring some of them to pay more for fuel to keep warm, but at a positive cost of having health improved as a result.
61. The proposal would mean that people could only burn clean seasoned wood with the 'ready to burn' logo in approved appliances, or authorised fuel in non-approved appliances/fireplaces. This would be more expensive for people who were reliant on foraging for wood as their main source of fuel.
62. The proposal would not have any new implications on the 48% of the city already covered by SCAs, as they are already subject to these rules. Most modern, recently installed appliances are likely to be compliant with this legislation.
63. This proposal does not bring a complete ban on the use of solid fuels, and our recent ["Do You Fuel Good?"](#) campaign highlights that there are [best practices](#) that residents can follow to significantly reduce the amount of smoke emissions from wood burning appliances.

Report author	Pedro Abreu
Job title	Principal Air Quality Officer
Service area or department	Environmental Sustainability
Telephone	01865 249811
e-mail	pabreu@oxford.gov.uk

Background Papers: None

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