

CAL consultation response re Draft City Plan 2040

Simon Birkett [REDACTED]

Mon 6/17/2024 11:42 AM

To: Planning Policy Consultations <PlanningPolicyConsultations@cityoflondon.gov.uk>

📎 2 attachments (511 KB)

CAL 486 City of London VP Act 1954.pdf; CAL 499 Letter to DLUHC re buildings 140223 V4 edited.pdf;

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THIS IS AN EXTERNAL EMAIL

Dear City of London Planning team

Please confirm receipt.

I am writing on behalf of 'Clean Air in London' ("CAL") in response to your consultation on the Draft City Plan 2040. Thank you for the opportunity to do so.

CAL has the following comments:

1. CAL applauds the City of London Corporation's ("City's") leadership on 'clean air' over more than 15 years. No other 'local authority' has done better in that time.
2. CAL also applauds your: definition of 'zero carbon' and (page 313); commitment to move to a net zero carbon City by 2040 (Policy DE1 page 127 and para 9.2.0 on page 128); and proposed transition towards a zero carbon and climate resilient City (Policy S7 on page 114).
3. The City has been a particular leader in the area of 'Air quality' (Policy HL2 on page 22). CAL applauds your air quality policy's requirements to require developers to 'install non-combustion energy technology where available', protect vulnerable people and minimise the impacts of construction.
4. However, CAL wishes to point out that Policy HL2's strong references to 'air quality neutral' means no more than 'no worsening of air pollution' and is different to what most people understand by 'carbon neutral' (which is often thought (wrongly) to mean 'zero carbon'). Please therefore amend HL2 to make clear that your require 'zero air emissions' from buildings and appliances when operational. The Climate Change Committed expects this to be needed by 2030 not 2040. Otherwise, the policy would appear to have conflicting aims i.e. no reduction in pollution and yet require non-combustion. For former not the latter needs fixing. 'Air quality neutral' is also inconsistent with the City's declaration of a climate emergency and commitment to achieve net zero carbon throughout the City by 2027 and 2040.
5. Please aim to achieve zero air emissions from all new developments, including substantial refurbishments, with immediate effect. CAL cannot overstate the importance of this requirement. In CAL's experience, all developers now want all-electric buildings.
6. CAL is pleased that the City has highlighted the need for 90% of the Square Mile to meet WHO air quality guidelines for NO2 by 2025. Please go further and include an aim to achieve the WHO's interim targets for NO2 of 20ug/m3 and PM2.5 of 10ug/m3 by 1 January 2030. This position was adopted by the Plenary of the European Parliament on 24 April 2024 with the possibility of conditional time extensions:

https://www.europarl.europa.eu/doceo/document/TA-9-2024-0319_EN.html

The proposed legislation is subject to further approval in the Autumn.

<https://cleanair.london/policy/new-who-air-quality-guidelines/>

7. CAL points you to the G7's recent Turin Communique which included commitments on air quality (para 14 on page 24):

https://www.g7italy.it/wp-content/uploads/G7-Climate-Energy-Environment-Ministerial-Communique_Final.pdf

8. CAL encourages the City to include commitments on indoor air in its City Plan. Please see CAL's letter to DLUHC dated 14 February 2023 (attached) which has specific recommendations on indoor air and the control of emissions from buildings and appliances.

9. CAL is very concerned about emissions of fine particles (PM2.5) from commercial cooking in the City. Please see the LAEI 2019 for details:

<https://data.london.gov.uk/dataset/london-atmospheric-emissions-inventory--laei--2019>

The LAEI 2022 is due to be published later this year.

10. Please press harder for zero air emissions from river traffic and a requirement to use onshore (electric) power for ships in all City-managed port facilities.

Last but not least, please remember that 5 July 2024 (i.e. two weeks' time) will be the 70th anniversary of the City of London (Various Powers) Act 1954 (attached) receiving Royal Assent. It was probably the world's first Clean Air Act and responded admirably and quickly to the Great Smog (5-9 December 1952) by stating: "*No smoke should be emitted from premises in the City of London*". This was remarkable ambition level at the time and two years before the UK's first Clean Air Act (1956). It should encourage you to be at least as ambitious now.

Please continue the City's leadership on clean air by addressing the above points.

I would be pleased to meet you to discuss the above points.

With thanks again for the opportunity to respond to this important consultation.

Best.

Simon

Simon Birkett
Founder and Director
Clean Air in London



Stay motivated by downloading our **Clean Air in Cities** app which illustrates the health impact of short-term exposure to air pollution at your location. The app and widgets also report the health impact of long-term exposure to dangerous airborne particles (PM_{2.5}) for the population in local areas, regions and England as a whole. These are available for [iOS](#) and [Android](#) devices and can be downloaded from the appropriate store.

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Clean Air in London is a company limited by guarantee, registered in England and Wales, with company number 7413769 and registered office Thames House, Mere Park, Dedmere Road, Marlow, Bucks SL7 1PB.

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CITY OF LONDON (VARIOUS POWERS) ACT 1954

ARRANGEMENT OF SECTIONS

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An Act to enact provisions with respect to smoke abatement streets and local government in the City of London; to make further provision with respect to superannuation; and for other purposes. [5 July 1954]

Whereas it is expedient that:—

- (1) No smoke should be emitted from premises in the City of London:
- (2) Further provision should be made with respect to streets and local government in the City:
- (3) The provisions of the local Acts with respect to superannuation should be amended and extended as in this Act provided:
- (4) The other provisions in this Act contained should be enacted:

And whereas the objects of this Act cannot be attained without the authority of Parliament:

May it therefore please Your Majesty that it may be enacted and be it enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament and by the authority of the same as follows:

PART I
PRELIMINARY

1 Short Title

This Act may be cited as the City of London (Various Powers) Act 1954.

2 Division of Act into Parts

This Act is divided into Parts as follows:—

- Part I -Preliminary;
- Part II -Smoke abatement;
- Part III -Administrative;
- Part IV -Superannuation;
- Part V -Miscellaneous.

3 Interpretation

(1) In this Act unless there be something in the subject or context repugnant to such construction—

"Act of 1944" means the City of London (Various Powers) Act 1944;

"City" means the City of London;

"Commission" means the British Transport Commission and any reference to the Commission in relation to any functions of the Commission which are for the time being delegated to an Executive in pursuance of section 5 of the Transport Act 1947 shall be construed as a reference to that Executive;

"Common Council" means the Mayor Aldermen and Commons of the City in Common Council assembled;

"contravention" includes a failure to comply; and "contravene" shall be construed accordingly;

"Corporation" means the Mayor and Commonalty and Citizens of the City acting by the Common Council;

"daily penalty" means a penalty for each day on which an offence is continued after conviction therefor;

"enactment" includes this Act and any general or local Act order byelaw regulation or scheme made under any Act from time to time in force within the City;

"town clerk" means the Town Clerk of the City and includes any person duly appointed to discharge temporarily the duties of that officer.

(2) Unless otherwise expressly stated any reference in this Act to any enactment shall be construed as a reference to that enactment as applied extended amended or varied by or by virtue of any subsequent enactment including this Act.

PART II
SMOKE ABATEMENT

4 Prohibition of emission of smoke in City

(1) As from the date fixed in pursuance of subsection (5) of this section and subject to the other provisions of this section no smoke shall be emitted from any premises in the City.

(2) The occupier of any premises in the City from which smoke is emitted in contravention of the provisions of this section shall on summary conviction be liable to a penalty not exceeding [fifty pounds] and to a daily penalty not exceeding [ten pounds]

Provided that it shall be a defence in any proceedings under this subsection to prove that the smoke emitted—

- (a) arose solely from a furnace stove or other appliance suitable for burning an authorised fuel and properly maintained and used and so arose either—
 - (i) by burning that authorised fuel therein; or
 - (ii) by burning any other type of fuel therein and that such other type of fuel was burnt therein for the reason that the authorised fuel for which the furnace stove or other appliance was suitable was not available to the defendant and could not with reasonable care and foresight on his part have been available to him at the time the smoke was emitted; or
- (b) arose by burning any fuel whether an authorised fuel or not which may have been approved by the Common Council as suitable for the furnace stove or other appliance in which it was burnt in accordance with such conditions and during such period as may have been approved as aforesaid in relation to such furnace stove or other appliance.

In this subsection the expression "authorised fuel" means coke anthracite or any other fuel from time to time, approved as being an authorised fuel by resolution of the Common Council.

- (3) The occupier of any premises who—
 - (a) by reason of a restriction affecting his interest in the premises is unable to execute works for the purpose of complying with the provisions of this section; or
 - (b) considers that the owner of the premises or any other person having an interest therein should contribute towards the cost of the execution of works as aforesaid and is unable to agree with the owner or such other person as to whether such a contribution should be made or as to the amount thereof;

may apply to the Mayor's and City of London Court for an order to enable the execution of such works as may be necessary for the purpose of complying with the provisions of this section or (as the case may be) to direct the owner of the premises or any other person who appears to the Court to have an interest therein to contribute towards the cost of such works

as aforesaid such an amount as appears to the Court in all the circumstances of the case to be fair and reasonable and the said Court may on such application make an order in respect of either or both of the matters aforesaid accordingly.

(4) The Common Council may if they think fit contribute the whole or part of the expense necessarily incurred by any person in connection with the execution of works for the purpose of complying with the provisions of this section whether in compliance with an order under the last foregoing subsection or otherwise.

(5) The foregoing provisions of this section shall come into operation on such date after the first day of October nineteen hundred and fifty-five as may be fixed by resolution of the Common Council of which date at least six months' notice shall be given by publishing a notice in a local newspaper circulating in the City.

(6) The Common Council may in any resolution passed in pursuance of this section provide in relation to any premises specified in that resolution that the provisions of this section shall not apply to such premises or that the application of the provisions of this section to such premises shall be deferred for such period as may be specified in that resolution:

Provided that where in any resolution provision is made relating to any premises specified therein in pursuance of this subsection a copy of the resolution shall as soon as practicable after the passing thereof be served on the owner and the occupier of the premises specified therein.

(7) A resolution passed in pursuance of this section may be varied or revoked by another resolution passed by the Common Council in like manner and subject to the like provisions.

(8) A copy of a newspaper containing a notice published in pursuance of subsection (5) of this section shall be sufficient evidence of the publication of the notice and of the date of the publication.

[8A Any land or buildings being premises to which this section applies which extend into the city and into any metropolitan borough shall be treated for the purposes of this section as being wholly within the city or wholly within that borough as may be agreed between the common council and the council of that borough or in default of agreement determined by the Minister of Housing and Local Government.]

(9) Nothing in this section shall apply to smoke emitted from a railway locomotive.

(10) As from the date fixed in pursuance of subsection (5) of this section section 14 (Further bye-laws for regulating smoke) of the City of London (Various Powers) Act 1946 is hereby repealed.

[(11) For the purposes of this section—

the execution of works includes the provision, alteration or adaptation of fixtures, fittings and appliances;

any reference to the occupier of any premises shall be construed as a reference to the occupier or other person in control of the premises; and

“premises means any land or building or part thereof; and
“smoke” includes soot, ash, grit or gritty particles]

NOTES

Amendments Sub-s (2): words in square brackets inserted by City of London (Various Powers) Act 1971 s. 4.

Sub-s(8A): words in square brackets inserted by City of London (Various Powers) Act 1960 s. 32.

Sub-s(11): words in square brackets inserted by City of London (Various Powers) Act 1971 s. 4.

The Local Acts Tables erroneously states that Part II was repealed by S.I.1977/1341, art.23, sch.6 pt.I.

PART III ADMINISTRATIVE

5 As to committees of Common Council

(1) A member of a committee appointed by the Common Council who at the time of his appointment as such a member was a Common Councilman shall on ceasing to be a Common Councilman cease to be a member of the committee:

Provided that this subsection shall not apply to a person who has been re-elected as a Common Councilman not later than the fourth day after he has so ceased to be a Common Councilman.

(2) Without prejudice to the provisions of any standing orders made from time to time by the Common Council under section 7 (Standing orders &c.) of the Act of 1944 any committee appointed by the Common Council as constituted immediately before the ordinary day of election of Common Councilmen shall on and after that day until the appointment of the successors of or the termination of the appointment of the committee continue to discharge as such committee such functions in relation to matters of routine or matters of so urgent a nature that they cannot conveniently be postponed until the appointment of a new committee as the committee was empowered or required to discharge immediately before that day.

6 Minutes of meetings of Common Council

(1) Minutes of the proceedings of all meetings of the Common meetings of Council shall be drawn up and shall be signed by the town clerk and any minute purporting to be so signed shall be received in Council evidence without further proof.

(2) Until the contrary is proved all meetings of the Common Council in respect of the proceedings of which a minute has been so signed shall be deemed to have been duly convened and held and all the members present at the meeting shall be deemed to have been duly qualified.

7 Evidence of proceedings at meetings

(1) Proof of any proceedings of a meeting of the Common Council or of a committee of the Common Council may (without prejudice to any other manner in which such proceedings may be proved) be given by the production of a certified copy of the minutes of the proceedings drawn up in pursuance of subsection (1) of section 6 (Minutes of meetings of

Common Council) of this Act or of subsection (2) of section 8 (Proceedings &c.) of the Act of 1944 (as the case may be) or of a certified copy of a sufficient extract from such minutes and any such certified copy shall be received in evidence without further proof.

(2) In this section the expression "certified copy" means a copy bearing a certificate purporting to be signed by the town clerk or other duly authorised officer of the Common Council stating that the copy is a true copy of the minutes drawn up as aforesaid or of an extract therefrom as the case may be.

8 Service of notice on Corporation

Any notice order or other document required or authorised any enactment to be sent or delivered to or served upon the Corporation or the town clerk shall be addressed to the Corporation or the town clerk (as the case may be) and left at or sent by post in prepaid letter to the offices of the Corporation.

9 Service of notices by Corporation

(1) Subject to the provisions of this section any notice order other document required or authorised by any enactment to be served by or on behalf of the Corporation or by an officer of the Corporation on any person shall be deemed to be duly served—

(a) where the person to be served is a company if the document is addressed to the secretary of the company at its registered office or at its principal office or place of business and is either—

- (i) sent by post in a prepaid letter; or
- (ii) delivered at the registered office or at the principal office or place of business of the company;

(b) where the person to be served is a partnership if the document is addressed to the partnership at its principal place of business identifying it by the name or style under which its business is carried on and is either—

- (i) sent by post in a prepaid letter; or
- (ii) delivered at the said place of business;

(c) where the person to be served is a public body or a corporation society or other body if the document is addressed to the clerk secretary treasurer or other head officer of that body corporation or society at its principal office and is either—

- (i) sent by post in a prepaid letter; or
- (ii) delivered at that office;

(d) in any other case if the document is addressed to the person to be served and is either sent to him by post in a prepaid letter or delivered at his residence or place of business.

(2) Any document which is required or authorised to be served on the owner or occupier of any premises may be addressed "the owner" or "the occupier" (as the case may be) of those

premises (naming them) without further name or description and shall be deemed to be duly served—

(a) if the document so addressed is sent or delivered in accordance with paragraph (d) of the foregoing subsection;

or

(b) if the document so addressed or a copy thereof so addressed as delivered to some person on the premises or where there is no person on the premises to whom it can be delivered is affixed to some conspicuous part of the premises.

(3) A notice to treat issued by or on behalf of the Corporation under section 18 of the Lands Clauses Consolidation Act 1845 or any other enactment shall if served by post be served by registered post.

(4) Where a document is served on a partnership in accordance with this section the document shall be deemed to be served on each partner.

(5) For the purpose of enabling any document to be served on the owner of any premises the Corporation may by notice in writing require the occupier of the premises to state the name and address of the owner thereof and if the occupier refuses or wilfully neglects to do so or wilfully misstates the name and address of the owner he shall unless in the case of a refusal he shows cause to the satisfaction of the court for his refusal be liable on summary conviction in respect of each offence to a fine not exceeding five pounds.

(6) In this section the expression "document" means any notice order or other document which is required or authorised to be served as mentioned in subsection (1) of this section.

(7) For the purposes of this section a notice order or other document shall be deemed to be a notice order or other document which is required or authorised to be served on a person if it is required or authorised to be notified given or transmitted or (in the case of a demand) if it is required or authorised to be made to that person and in this section the expressions "served" and "service" shall be construed accordingly.

10 Authentication of documents

(1) Any notice order or other document which the Corporation are authorised or required by or under any enactment to give make or issue may be signed on behalf of the Corporation by the town clerk or by any other officer of the Corporation authorised by them in writing to sign documents of the particular kind the particular document as the case may be.

(2) Any document purporting to bear the signature of the town clerk or of any officer stated therein to be duly authorised by the Corporation to sign such a document or the particular document (as the case may be) shall be deemed until the contrary is proved to have been duly given made or issued by the authority of the Corporation.

(3) In this section the expression "signature" includes a facsimile of a signature by whatever process reproduced.

11-14 (*Repealed by SI 1977, art. 23, sch 6*)

15 (*Repealed by City of London (Various Powers) Act 1962, s.11.*)

16 Maintenance and improvement of burial ground

(1) The powers of the Common Council in relation to the burial ground provided by them in the county borough of East Ham shall include power to put and keep in order any grave or tombstone therein or thereon and to remove an such tombstone subject to the following provisions of this section.

(2) Before removing any tombstone under the powers of this section the Common Council shall give notice of their intention so to do

- (a) by publishing the notice once in each of two successive weeks in a local newspaper circulating in the area in which the burial ground is situate with an interval between each publication of not less than six clear days; and
- (b) by displaying the notice in a conspicuous position in the burial ground.

(3) Any such notice shall—

- (a) contain a description of the works intended to be executed;
and
- (b) specify the date on which it is intended that those works will be commenced which shall not be earlier than the fourteenth day after the last publication of the notice in a newspaper as aforesaid or the twenty-first day after the notice is first displayed in the burial ground as aforesaid; and
- (c) state the effect of subsection (4) of this section.

(4) If notice of objection to the execution of any such works and of the ground thereof is given to the Common Council before the date so specified and is not withdrawn before the expiration of fourteen days from that date the works to which the objection relates shall not be executed without the consent of the Minister of Housing and Local Government.

(5) Any tombstone removed by the Common Council under the powers of this section shall remain the property of the owner of the grave from which it has been removed and if such owner does not claim it within a period of three months after the first publication of the notice referred to in subsection (2) of this section the Common Council may put the tombstone to such use as they may deem appropriate or they may destroy it.

(6) Where any tombstone is removed under the powers of this section the Common Council shall after consultation with any known next of kin at their own expense in substitution therefor place a marker stone of a value not exceeding twenty-five pounds at the head of the grave.

(7) The Common Council shall cause to be made a record of any tombstone removed under the powers of this section showing the particulars respecting the tombstone so removed as a separate entry and a copy of such record shall be deposited at the General Register Office

Somerset House London with the Miscellaneous Records in the custody of the Registrar-General.

(8) In this section the following expressions have the meanings hereby assigned to them:

"grave" includes a grave space niche or urn;

"tombstone" includes a kerb surrounding any grave vase monument or other memorial of a deceased person.

17 Date for poll at municipal elections

(1) Where under any enactment the day on which a poll at a municipal election is required to be held is any of the days poll mentioned in the next following subsection the requirement shall be deemed to relate to the first day thereafter which is not one of those days.

(2) The days referred to in the foregoing subsection are any Saturday Sunday Christmas Day Good Friday any bank holiday under the Bank Holidays Act 1871 and a day appointed for public thanksgiving or mourning.

(3) Where by reason of the illness absence or other incapacity of any Alderman of the City the Lord Mayor is required to take a poll in more than one Ward on the same day each such poll shall be taken on such a day as the Lord Mayor may appoint and any poll taken on a day so appointed by the Lord Mayor shall notwithstanding anything in any other enactment be as valid and effectual as if it were taken on the day next following the day on which it shall have been demanded in accordance with section 5 (Day and times for opening and closing the Poll) of the City of London Ballot Act 1887.

(4) The following enactments are hereby repealed:

City of London Elections Act 1849

section VI (Regulations as to taking the Poll at Elections of Aldermen Common Councilmen and Ward Officers);

Municipal Elections (Corrupt and Illegal Practices) Act 1884

subsection (7) of section 35 (Application to City of London).

(5) The City of London Ballot Act 1887 shall have effect as if in the said section 5 of that Act the words from "but in all other respects" to "chapter ninety-four" and the words from "as provided by" to the end of that section were omitted.

(6) In this section the expression "municipal election" means an election for any Alderman Common Councilman or Ward Officer for a Ward within the City and any election by Liverymen in Common Hall.

[18 As to vesting of functions and land in Corporation

(1) Any enactment which confers or imposes any functions upon the Common Council shall be construed as conferring or imposing such functions upon the Corporation

(2) The Common Council may exercise all such functions as are vested in the Corporation.

(3) Any enactment which confers upon the Common Council power to acquire land shall be deemed always to have conferred power to vest the land acquired thereunder in the Corporation and any land vested in the Common Council and all functions attaching thereto are hereby and without further assurance transferred to and vested in the Corporation.

(4) The Corporation shall have and be deemed always to have had power to hold land without licence in mortmain.

(5) In this section references to the Corporation and to the Common Council shall be construed as references to the Corporation and to the Common Council in their several capacities as local authorities and the expression “functions” shall include exemptions.]

NOTES

Amendments S 18 substituted by the City of London (Various Powers) Act 1958, s 5.

19 *(Repealed by the Justice of the Peace Act 1968, s. 8, sch 5 pt II)*

20 Standings for hackney carriages to be appointed and regulated by Commissioner of Police

.....
(6) Section 30 of the London Hackney Carriages Act 1843 shall cease to apply to the City.
.....

NOTES

Amendments Sub-ss (1) – (5) (Repealed by Justice of the Peace Act 1956, s 9(7))

Sub-s (7) (Repealed by City of London (Various Powers) Act 1956, s 9(7))

21 Structures over or under streets

(1) Notwithstanding anything in any existing enactment it shall not be lawful without the licence of the Common Council to construct or erect any structure over or under any street in the City:—

Provided that a licence of the Common Council shall not be required under this section—

- (a) in respect of the construction or erection by the Commission of any structure over or under any street belonging to them or in respect of the construction or erection by the Commission in the exercise of statutory powers of any structure over or under any street; or
- (b) in respect of any structure to the construction or erection of which Part I of the Public Utilities Street Works Act 1950 applies; or
- (c) in respect of the construction or erection by any person of any structure over or under any street repairable by the Common Council in the exercise of a right reserved or otherwise subsisting on the conveyance or dedication of land

for such street; or

- (d) in respect of any works carried out by or vested in the [Greater London Council] ... in connection with the London main drainage system or the system of unfiltered water mains or in respect of the construction of any subway vested in the [Greater London Council] for the reception of pipes and wires.

(2) A licence under this section may be given on such terms and conditions as the Common Council think fit and such terms and conditions shall be binding on successive owners and occupiers of the structure and shall be treated as a local land charge for the purposes of the Land Charges Act 1925:

Provided that—

- (a) a licence shall not authorise any interference with the convenience of persons using the street or affect the rights of the owners of any property abutting on the street or the rights of any railway road transport dock harbour electricity gas or water undertakers acting under statutory powers;
- (b) every such licence shall be deemed to include a condition that the owner of the structure or if the licence is granted to an occupier the occupier shall at the request of the Common Council and at his own expense remove or alter such structure in such manner as the Common Council require if they consider such removal or alteration necessary or desirable in connection with the carrying out of improvements to the street at any time and every such licence shall state the effect of this proviso;
- (c) for the purposes of section 7 of the Telegraph Act 1878 any work authorised or required by a licence under this section shall be deemed to be work done in the execution of an undertaking authorised by an Act of Parliament and for the purposes of the placing or maintenance of telegraphic lines under the powers conferred by the Telegraph Acts 1863 to 1951 a structure constructed erected or used in accordance with a licence under this section shall be deemed to be part of any street or road which it crosses.

(3) If any person (except in the exercise of statutory powers) constructs or erects a structure over or under any street without a licence under this section or constructs erects or uses a structure otherwise than in accordance with the terms and conditions of the licence or fails to remove or alter a structure when required so to do under this section or fails to remove a structure in accordance with a term or condition of the licence or within one month after the termination of the licence the Common Council may themselves remove or alter the structure or execute any such works as may be necessary to secure compliance with the terms and conditions of the licence and may recover summarily as a civil debt from that person the expenses reasonably incurred by them in so doing and without prejudice to their right to exercise that power if any person (except as aforesaid) constructs or erects a structure over or under any street, without a licence under this section he shall on summary conviction be liable to a penalty not exceeding twenty pounds.

(4) In any case in which the construction or erection of a structure for which a licence is

required under this section constitutes development which by virtue of the Town and Country Planning Act 1947 and any development order for the time being in force thereunder may be undertaken only with planning permission granted on an application the following provisions shall apply so long as the power to grant planning permission under that Act is delegated to the Common Council and in such provisions the Common Council acting in pursuance of such delegated powers is referred to as "the planning authority":

- (a) Where application for planning permission is made to the planning authority otherwise than through the Common Council in accordance with subparagraph (ii) of the following paragraph the planning authority shall:
 - (i) inform the applicant that the provisions of this section apply and of the action which they propose to take in accordance with this paragraph;
 - (ii) forward to the Common Council application on behalf of the applicant for the licence required under this section; and
 - (iii) inform the applicant of the decision of the Common Council.
- (b) Where application for a licence under this section is made to the Common Council otherwise than through the planning authority in accordance with subparagraph (ii) of the foregoing paragraph the Common Council shall:
 - (i) inform the applicant that planning permission is required and of the action which they propose to take in accordance with this paragraph;
 - (ii) on receiving from the applicant the documents and plans appropriate for an application for planning permission forward to the planning authority the said application for planning permission and documents and plans; and
 - (iii) inform the applicant of the decision of the planning authority.

(5) The following enactments are hereby repealed:—

City of London Sewers Act 1848

Section 125 (Vaults and Cellars under Streets not made without the Consent of the Commissioners);

City of London (Various Powers) Act 1900

Section 51 (No bridge to be built across street);

Section 52 (Bridge not approved may be removed):

Provided that any consent or approval given under the said section 125 or the said section 51 shall for all purposes be deemed to have been given as a licence under this section and any conditions attached to such consent or approval shall be deemed to have been attached to such a licence under this section.

(6) In this section the following expressions have the meanings hereby assigned to them—

"street" has the same meaning as in the City of London Sewers Act 1848;

"structure" means an arch under a street or a pavement light coal plate bridge vault or cellar.

NOTES

Amendments Sub-s(1): words in square brackets substituted by SI 1965/508, art. 3, Sch 1. The words omitted repealed by SI 1965/508, art. 4 Sch 2.

Note Section 21 replaced earlier legislation which, while empowering the Common Council to prohibit absolutely the erection of certain structures, did not allow permission for their erection to be given subject to conditions.

22 – 23 (*Repealed by SI 1965/508, art. 4, Sch 2*)

TABLE OF STATUTES REFERRED TO IN THIS ACT

Short Title	Session and Chapter
London Hackney Carriages Act 1843	6 & 7 Vict. c. 86.
Lands Clauses Consolidation Act 1845	8 & 9 Vict. c. 18.
City of London Sewers Act 1848	11 & 12 Vict. c. clxiii.
City of London Elections Act 1849	12 & 13 Vict. c. xciv.
Metropolitan Public Carriage Act 1869	32 & 33 Vict. c. 115.
Bank Holidays Act 1871	34 & 35 Vict. c. 17.
Borough and Local Courts of Record Act 1872	35 & 36 Vict. c. 86.
Telegraph Act 1878	41 & 42 Vict. c. 76.
Municipal Elections (Corrupt and Illegal Practices) Act 1884	47 & 48 Vict. c. 70.
City of London Ballot Act 1887	50 & 51 Vict. c. xiii.
City of London (Various Powers) Act 1900	63 & 64 Vict. c. ccxxviii.
Mayor's and City of London Court Act 1920	10 & 11 Geo. 5 c. cxxxiv.
London Traffic Act 1924	14 & 15 Geo. 5 c. 34.
Land Charges Act 1925	15 & 16 Geo. 5 c. 22
City of London (Various Powers) Act 1931	21 & 22 Geo. 5 c. xiv.
Public Health (London) Act 1936	26 Geo. 5 & I Edw. 8 c. 50.
Local Government Superannuation Act 1937	1 Edw. 8 & I Geo. 6 c. 68.
City of London (Various Powers) Act 1944	7 & 8 Geo. 6 c. iv.
City of London (Various Powers) Act 1946	9 & 10 Geo. 6 c. xxix.
Transport Act 1947	10 & 11 Geo. 6 c. 49.
Town and Country Planning Act 1947	10 & 11 Geo. 6 c. 51.
Justices of the Peace Act 1949	12 13 & 14 Geo. 6 c. 101.
Public Utilities Street Works Act 1950	14 Geo. 6 c. 39.
Magistrates' Courts Act 1952	15 & 16 Geo. 6 & 1 Eliz. 2 c. 55.
Local Government Superannuation Act 1953	1 & 2 Eliz. 2 c. 25.

The Rt. Hon. Michael Gove MP
Secretary of State for Levelling Up, Housing and Communities
Department for Levelling Up, Housing and Communities
2 Marsham Street
London
SW1P 4DF

14 February 2023

Dear Secretary of State

Clean air: ‘Awaab’s Law’, improving indoor air and reducing building emissions

I am writing on behalf of Clean Air in London (“CAL”) to thank you for tabling amendments¹ to the Social Housing (Regulation) Bill² to introduce ‘Awaab’s Law’, which will require landlords to fix reported health hazards within specified timeframes³.

I am also writing to encourage you to take a lead in improving indoor air quality and reducing building emissions in your work investing in local areas, delivering homes, supporting groups and overseeing local government, planning and building safety.

As you may know, Defra admitted today that the UK breached the single annual emission ceiling applicable to the National Emission Ceilings Regulations 2018 (“NECR”) and the Gothenburg Protocol to the UNECE Convention on Long-range Transboundary Air Pollution (“CLRTAP”) for total UK primary emissions of fine particulate matter (PM_{2.5})⁴ in 2021. Domestic wood burning was the largest source at 21% followed by emissions from industrial sites, road transport and construction⁵. Please note the difference between primary emissions and total concentrations which include ‘secondary PM_{2.5}’ from ammonia (NH₃) i.e. agriculture. CAL will write to Defra separately on the legal issues.

‘Awaab’s Law’ shows what can be done to address these problems. In your current role, you have an opportunity over the next two years to protect health, the environment and the climate through the levers of objective setting, policy, primary and secondary legislation, guidance and influence.

Indoor air

COVID-19, the tragic death of Awaab Ishak aged two (21 December 2020), the publication of the World Health Organisation’s (“WHO’s”) new air quality guidelines (published on 22 September 2021) and the Chief Medical Officer’s annual report on air pollution (published on 8 December 2022) have highlighted the importance of indoor air quality.

¹ https://publications.parliament.uk/pa/bills/cbill/58-03/0206/amend/socialhousing_rep_rm_0210.pdf

² <https://bills.parliament.uk/bills/3177>

³ <https://www.gov.uk/government/news/government-to-deliver-awaabs-law>

⁴ <https://www.gov.uk/government/statistics/emissions-of-air-pollutants/emissions-of-air-pollutants-in-the-uk-background>

⁵ <https://www.gov.uk/government/statistics/emissions-of-air-pollutants/emissions-of-air-pollutants-in-the-uk-particulate-matter-pm10-and-pm25>

CAL points you to several lessons:

- **COVID-19:** An excellent study by Andrew Conway Morris and others at Addenbrooke’s Hospital (published 1 July 2022)⁶ found the airborne COVID-19 virus (i.e. SARS-COV-2 RNA) only on particles with a diameter greater than 1 micron (µm) and almost none when a portable HEPA air filtration device was switched on (to achieve five to 10 room-volume filtrations per hour). Bioaerosol was also effectively filtered. N.B. viruses usually die once captured in an air filter.
- **Awaab Ishak’s** tragic death and inquest reminded us that the World Health Organisation’s ‘Housing and health guidelines’ (published on 23 November 2018)⁷ stated that “*Instead, it is recommended that dampness and mould-related problems be prevented*” [page 91] and “*Dampness and mould may be particularly prevalent in poorly maintained housing for low-income people. Remediation of the conditions that lead to adverse exposure should be given priority to prevent an additional contribution to poor health in populations who are already living with an increased burden of disease*” [page 92].

Your announcement on 9 February 2023 and letters to all providers of social housing⁸ and local authorities⁹ (19 December 2022) demonstrated the vital role that Government can play in tackling these problems.

- **World Health Organization’s (“WHO’s”)** new air quality guidelines (published 22 September 2021)¹⁰ halved their guideline for PM_{2.5} and slashed another for nitrogen dioxide (NO₂) by 75%. Importantly, the WHO stated “*The present guidelines are applicable to both outdoor and indoor environments globally*” [page roman xx]¹¹. ‘Occupational settings’ are excluded e.g. industrial welding where Health and Safety Executive (H.S.E.) and other standards apply.
- **Chief Medical Officer’s Annual Report 2022 on air pollution**¹² (published 8 December 2022) included five recommendations on indoor air. Recommendation 12 says “*Effective ventilation, while minimising energy use and heat loss, is a priority for reducing air pollution, respiratory infections and achieving net zero. This is a major engineering challenge which needs solving.*”

At last, there is official recognition that the long-standing advice to rely on ‘fresh air’¹³ – which is going to result in large energy costs to warm incoming air in winter and cool it in summer – is not the answer. In any event, many busy locations do not have clean outdoor air. Please bear in mind also that the desired outputs are clean indoor air (not ventilation *per se*) and low energy use.

⁶ <https://www.cam.ac.uk/research/news/air-filter-significantly-reduces-presence-of-airborne-sars-cov-2-in-covid-19-wards>

⁷ https://cleanair.london/app/uploads/WHO-Housing-and-Health-guidelines_28-November-2018_Para-8-2-2-pages-94-to-95.pdf

⁸ https://cleanair.london/app/uploads/SoS_letter_to_all_providers_of_social_housing-191122.pdf

⁹ https://cleanair.london/app/uploads/SoS_letter_to_local_authority_chief_executive_and_council_leaders-191122.pdf

¹⁰ <https://cleanair.london/hot-topics/new-who-air-quality-guidelines/>

¹¹ <https://cleanair.london/app/uploads/CAL-423-New-WHO-AQGs-220921.pdf>

¹² <https://www.gov.uk/government/publications/chief-medical-officers-annual-report-2022-air-pollution>

¹³ <https://www.hse.gov.uk/ventilation/overview.htm>

The ‘*major engineering challenge*’ that the Chief Medical Officer (“CMO”) foresees does not exist because ‘heating, ventilation and air conditioning’ (“HVAC”) engineers and facilities managers have spent decades perfecting solutions to achieve clean air and low energy use in buildings.

For example, a normal HVAC system in a building can remove well over 90% of PM₁ particles in a single circulation simply by using two ePM₁ 70% low energy bag air filters complying with standard BS EN ISO 16890:2016 for supply air and one for recirculation air. HVAC systems typically combine 20% outdoor air with 80% recirculation air and achieve five to 10 air changes per hour (i.e. one every 12 or six minutes) to reduce energy use for heating or cooling in similar proportions. HEPA air filters and positive air pressure are the gold standard e.g. in healthcare and biosecurity facilities. Portable air cleaners with HEPA air filters can also be used in hard-to-reach ventilation ‘not spots’ and in buildings not served by ducted mechanical ventilation.

Clean indoor air is likely to further reduce energy use by preventing the accumulation of dust and fluff on heating and cooling coils (which adversely impacts heat transfer, air flow and pressure drop through heat exchangers). Indeed, this was the original purpose of some old systems.

Regular maintenance is important for all HVAC systems, including ducting, with appropriate degrees of personal protective equipment for the technicians servicing them. Please bear in mind that CAL has seen an open cement bag dumped in ducting on the downstream (i.e. people) side of a sophisticated HVAC system, perhaps by a lazy builder.

Monitoring of energy use and indoor air quality should take place in a building or premises to ensure that positive outcomes are achieved. Where possible, CAL recommends regular monitoring where people live, work or visit to ensure compliance with the WHO’s latest air quality guidelines for particulate matter (PM_{2.5} and PM₁₀), nitrogen dioxide (NO₂), carbon monoxide (CO), formaldehyde, volatile organic compounds and carbon dioxide (CO₂). Humidity is also important to monitor.

- ***Cleaner indoor air across the [USA]*** (published 8 December 2022): The CMO’s excellent report coincided with further major commitments from the White House (President Biden) to prioritise cleaner indoor air across the United States as an effective tool for reducing the spread of COVID-19 and other airborne diseases¹⁴.

Here’s a link to a presentation on indoor air that I gave at a conference for HVAC professionals a few months before the new WHO air quality guidelines were published¹⁵.

Recommendations

CAL asks you please to apply your responsibilities and influence to improve the nation’s indoor air and offers five recommendations:

1. focus on the outputs of ‘clean air’ and ‘low energy use’ and differentiate between buildings with mechanical HVAC systems and those without (where portable standalone air filters can be used).
2. use the WHO’s new air quality guidelines and good practice statements (e.g. for ultrafine particles) to define indoor air quality as ‘acceptable’, ‘clean’ or ‘good’. New standards or testing protocols

¹⁴ <https://www.whitehouse.gov/ostp/news-updates/2022/12/08/fact-sheet-departments-and-agencies-commit-to-cleaner-indoor-air-across-the-nation/>

¹⁵ https://cleanair.london/app/uploads/HVN-230321_Final.pdf

- are not needed. Regrettably, most current guidelines still refer to the WHO's 2005 air quality guidelines (published in 2006).
3. make the most of existing mechanical HVAC systems. This can be done by using three ePM₁ 70% efficiency bag filters in a typical HVAC system filter configuration i.e. as described above. Carbon air filters can be added to eliminate gases such as NO₂ where there is an outdoor air pollution problem e.g. beside busy roads. Good bag air filters should each last 18 months to two years with the second one on the supply air side replacing the upstream one and a new one replacing the second one every nine to 12 months.
 4. update all regulations and guidance for indoor air for the new WHO standards and the latest internationally recognised standards. Relevant regulations and guidance include: BB 101¹⁶ (schools); building regulations (e.g. Ventilation, Part F)¹⁷; HTM-03¹⁸ (healthcare); and forthcoming BSI 40102¹⁹. Relevant standards include: BS EN 16798-3:2017 (which replaced EN 13779:2007 many years ago)²⁰; BS EN ISO 16890:2016 (air filter performance standards for particle removal); BS EN ISO 10121-2:2014 (air filter performance standards for gas removal); and Eurovent 4-23 (updated January 2022) (which has recommendations for air filter applications). BS EN ISO 10121-3:2022 is the recognised standard for the classification of molecular gas filtration e.g. NO₂. It is important that internationally recognised test standards are used for testing and validation e.g. BSI ISO 15714:2019 for the use of UV-C technology. UV-C has many uses but does not remove particles or gases and creates ozone (O₃) when it reacts with oxygen in the air.
 5. bear in mind, when you set timeframes for landlords to fix reported health hazards, that Awaab Ishak died aged two i.e. three or four months is more appropriate for action than six.

I would be pleased to explain the technical aspects of the above to your officials.

Building emissions

There is a major opportunity for DLUHC to reduce harmful emissions from buildings using your many levels of influence e.g. the planning system (including the NPPF) and standard setting.

Public and policy attention has been focused, for far too long, on traffic emissions alone (due mainly to the legal limits for NO₂, a toxic gas, matching the WHO's 2005 air quality guideline i.e. they were ambitious in health terms). This is in stark contrast to PM_{2.5} where the legal limit for annual mean concentrations has been two to 2.5 times the WHO air quality guideline since 2008²¹. I mentioned the separate annual emission ceilings for PM_{2.5} at the start of this letter.

Legal action over NO₂ breaches and a tendency by Defra to blame other departments for air pollution problems (e.g. transport) has exacerbated the situation. Action is long overdue by Defra on wood burning (which the Climate Change Committee says should be phased out)²² and ammonia (NH₃).

CAL points you to several lessons:

- Buildings are directly or indirectly responsible for a large proportion of primary PM_{2.5} and NO_x emissions. They are also responsible for the vast majority of greenhouse gas emissions generated

¹⁶ <https://www.gov.uk/government/publications/building-bulletin-101-ventilation-for-school-buildings#history>

¹⁷ <https://www.gov.uk/government/publications/ventilation-approved-document-f>

¹⁸ <https://www.england.nhs.uk/estates/health-technical-memoranda/>

¹⁹ <https://standardsdevelopment.bsigroup.com/projects/2021-02350#/section>

²⁰ https://cleanair.london/app/uploads/HVN-230321_Final.pdf

²¹ https://environment.ec.europa.eu/topics/air/air-quality/eu-air-quality-standards_en

²² <https://cleanair.london/health/ban-domestic-wood-burning-in-urban-areas/>

within a city like London. The London Plan 2021 states that “*London’s homes and workplaces are responsible for producing approximately 78 per cent of its greenhouse gas emissions*” [paragraph 9.2.1 on page 343].

- **Environment Act 2021.** Unfortunately, the Environment Act 2021 (“EA 2021”) was a missed opportunity. In essence, it:

1. **set weak air quality targets:** the EA 2021 set two targets for the UK to reduce PM_{2.5}. One of those is to achieve the WHO’s 2005 air quality guideline for annual mean concentrations of PM_{2.5} of 10 micrograms per cubic metre (µg/m³) by 2040 where monitors exist. Oddly, section 4(2)²³ of the Environment Act 2021 seems to have been interpreted too ‘literally’ and far too ‘cautiously’.

Modelling undertaken for the revision of the Gothenburg Protocol, obtained by CAL after the European Commission published a map²⁴ showing that most of the UK would comply with an annual mean of 5 (µg/m³) by 2030, shows that only 8,197 people would be exposed to an annual mean for PM_{2.5} of more than 7 µg/m³ by 2030 – as a baseline case.

2. **imposed new duties on local authorities under ‘Local air quality management’:** the EA 2021 increased obligations on local authorities without giving them matching new powers (Section 72 and Schedule 11²⁵):

- (3) *An action plan is a written plan that sets out how the local authority will exercise its functions in order to secure that air quality standards and objectives are achieved in the area to which the plan relates.*

This is much stricter than the previous requirement under the Environment Act 1995:

- (Section 84(2)(b) *...to prepare...a written plan (in this Part referred to as an “action plan”) for the exercise by the authority, in pursuit of the achievement of air quality standards and objectives in the designated area, of any powers exercisable by the authority.*²⁶

Lord Tope (with Baroness Jones, Lord Randall and Lord Whitty) proposed an amendment to the Environment Bill (amendment 55 in marshalled list 6 September 2021²⁷) which would have made a good start in giving local authorities the powers that they need to control emissions from plant and machinery in areas of poor air quality.

3. **amended the rules for Smoke Control Areas under the Clean Air Act 1993:** Section 73²⁸ and Schedule 12 of the EA 2021 tightened the penalties for the emission of smoke (to little or no effect) and the rules around the sale and purchase of solid fuel.

- **Wood burning.** Defra’s new national statistics for ‘Emissions of air pollutants in the UK 2021’ (published on 14 February 2023)²⁹ identified domestic wood burning as the largest source of total

²³ <https://www.legislation.gov.uk/ukpga/2021/30/section/4/enacted>

²⁴ https://cleanair.london/app/uploads/A_Press-release_European_Green_Deal_Commission_proposes_rules_for_cleaner_air_and_water.pdf

²⁵ <https://www.legislation.gov.uk/ukpga/2021/30/schedule/11/enacted>

²⁶ <https://www.legislation.gov.uk/ukpga/1995/25/section/84/enacted>

²⁷ <https://bills.parliament.uk/publications/42415/documents/613>

²⁸ <https://www.legislation.gov.uk/ukpga/2021/30/section/73/enacted>

²⁹ <https://www.gov.uk/government/statistics/emissions-of-air-pollutants>

UK primary emissions of PM_{2.5} in 2021 at 21% (up from 17% in 2020 and up by 124% between 2011 and 2021). It also admitted breaching the legal limit for total UK annual emission ceilings under the National Emissions Ceiling Regulations 2018 (“NECR”) and the Gothenburg Protocol to the UNECE Convention on Long-range Transboundary Air Pollution (“CLRTAP”).

You may be interested to know that the Greater London Authority has used its existing powers under the planning system to introduce new guidance on ‘Air Quality Neutral’³⁰ and ‘Air Quality Positive’³¹ (8 February 2023) that will reduce wood burning and other emissions in new or substantially refurbished properties. CAL would like Metro Mayors to have greater powers and duties to take stronger action sooner to reduce building and other non-transport emissions.

- **Commercial cooking** is an important source of PM_{2.5} emissions in cities and towns. Defra’s recent analysis and modelling and publications around its air quality targets (9 February 2023) and National Air Pollution Control Programme (10 February 2023) highlighted ‘great concern’ over the omission of commercial cooking in restaurants and food outlets from their data (page 122³²).

Estimates from the London Atmospheric Emissions Inventory 2019 (which is due to be updated shortly) showed that commercial cooking was responsible for 98.25 tonnes/annum of PM_{2.5} out of a total of 184.49 tonnes/annum in the City of Westminster i.e. 53.3%³³ in 2019. This dwarfs emissions from other sectors including road transport (31.53 tonnes/annum i.e. 17.1%).

A package of measures is needed therefore to address local emissions from commercial cooking including: rapidly phasing out or banning the most-polluting fuels and appliances (e.g. charcoal used for commercial cooking in cities); robust enforcement under the current rules; stricter application of planning and licensing conditions; new rules and regulations; and the promotion of induction and other electric stoves.

Recommendations

CAL asks you please to reduce harmful emissions from the nation’s buildings and offers five recommendations:

1. give local authorities and Metro Mayors new powers to control emissions from non-transport sources of pollution so that they can fulfil their new duties under the Environment Act 2021.
2. give local authorities and Metro Mayors powers to require zero or ultra-low emission plant, machinery and appliances in areas of poor air quality e.g. Local Air Quality Management Areas and Smoke Control Areas. This includes:
 - boilers fired by gaseous fuels which have a rated heat power output of less than 1 MW.
 - combined heat and power plant.
 - cooking appliances used in restaurants and food outlets.

³⁰ <https://www.london.gov.uk/programmes-strategies/planning/implementing-london-plan/london-plan-guidance/air-quality-neutral-aqn-guidance>

³¹ <https://www.london.gov.uk/programmes-strategies/planning/implementing-london-plan/london-plan-guidance/air-quality-positive-aqp-guidance>

³² https://cleanair.london/app/uploads/CAL-502-Defra-PM2-point-5-modelling-090223_2302091626_Analysis_of_abatement_options_to_reduce_PM2.5.pdf

³³ <https://data.london.gov.uk/dataset/london-atmospheric-emissions-inventory--laei--2019>

- domestic cooking appliances.
- fireplaces and wood burning stoves.
- non-road mobile machinery i.e. construction equipment or so called ‘yellow plant’.
- solid fuel boilers with a rated heat power of less than 1 MW.
- stationary generators with a rated thermal power output of less than 1MW.

The current controls for Smoke Control Areas were designed to deal with smoke and sulphur dioxide not NOx and PM and those for wood burning are no longer fit for purpose.

Even the City of London (Various Powers) Act 1954³⁴ said “No smoke should be emitted from premises...”. On the spot fines for visible smoke should be a minimum step forward in 2023.

3. specify maximum emission limits (which could be zero) for oxides of nitrogen (NOx) and particle mass and number concentrations for the above with limited exceptions during genuine emergencies.

This approach would have similarities with the ‘exempt appliances’ and ‘approved fuel’ framework already applied by local authorities. The limits should also be technology neutral i.e. a single emission limit should be set for each type of plant, equipment and appliance not looser emission limits for more polluting appliances. Two stage deadlines might be used e.g. 1 January 2028 and 1 January 2030.

Please also signal ending the sale of most new combustion plant, equipment and appliances by 2030 i.e. following the approach adopted with diesel and petrol cars.

4. update relevant regulatory standards and close lacunas by:
 - introducing zero emission limits for small boilers under the Ecodesign Regulations.
 - closing the regulatory gap between the current Ecodesign and medium combustion plant regulations to tackle emissions in the 500kW to 1MW thermal input range.
 - introducing tighter emission standards for medium combustion plant and generators.
 - scrapping ‘empty permits’ so that local authorities and Metro Mayors can play a role with the Environment Agency now in reducing emissions from some of the most polluting sources.
5. support energy efficiency (with respect to regulated and non-regulated energy use in buildings) and the development and use of zero air emission technologies.

There is an opportunity for DLUHC to deliver these changes quickly through the planning system, building regulations and other levers. The proposals are not onerous and would provide a clear framework for ensuring that zero and ultra low emission plant and equipment is used and installed in areas of poor air quality.

I would be pleased to discuss this letter with your officials.

Yours sincerely

Simon Birkett
Founder and Director

³⁴ https://cleanair.london/app/uploads/City-of-London_VP_Act-1954-2.pdf