

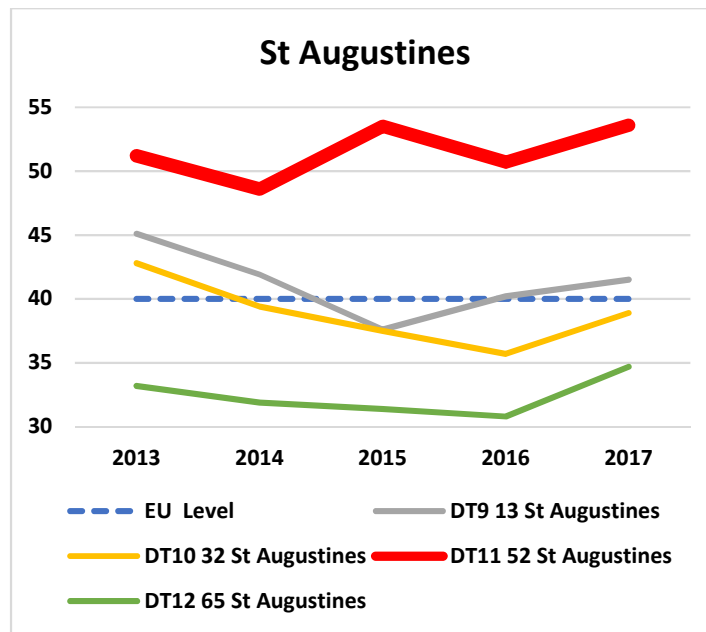
Anglia Square Appeal

Dr Andrew Boswell, Climate Emergency Planning and Policy, June 28th 2019

1 AIR QUALITY

- 1 Chapter 15 of the revised NPPF (“Conserving and enhancing the natural Environment”) requires that planning decisions should ensure new developments account for the likely effects of pollution on health (NPPF2/180) and contribute towards compliance with national laws and regulations for pollutants (NPPF2/181). DM11 of the NCC development management policies also requires development to account for the local air quality action plan.
- 2 Recent UK Court cases¹ have repeatably made it clear that legal “compliance” to EU and UK Air Quality Law and regulation *means “within the shortest possible time” after 2010*. Breaches after 2010 are illegal, and there remains no doubt that the judicial and case law position is that authorities must demonstrate that all possible actions are being made in the shortest possible time to eliminate breaches.
- 3 Norwich’s historic performance under the DEFRA Local Air Quality Management (LAQM) regime shows that:
 - 9 years after 2010, Norwich still measures illegal levels of nitrogen dioxide.
 - Whilst Council’s rhetoric predicts a year-on-year downward trend, the latest data from 2017 (reported in 2018) shows that levels at a majority of NO2 hotspots increased. This includes the notorious “52 St Augustine’s” measurement location which is close to Anglia Square, and has been systemically illegal since measurements began. All four Council monitors in St Augustine’s registered increases in 2017 as shown below, and the developer predicts a 21% increase in traffic in this busy gyratory street with the development in 2028.

¹ ClientEarth1, 2015, UK Supreme Court; ClientEarth2, 2016, UK High Court; Client Earth3, 2018, UK High Court.



- Norwich levels of particulates are above World Health Organisation (WHO) Global Air Quality Guidelines for PM2.5, and the Council reported them rising in 2017. There are no safe levels of PM10 or PM2.5 particulates and WHO are revising their guidelines.
- Public Health England (2014) estimated that 5.5% of all deaths of people aged 25 years and over in Norwich were attributable to particulate pollution. In 2016, the Royal College of Physicians report stated that 40,000 people across the UK suffer early deaths due to nitrogen dioxide and particulates

4 On the developer's modelling, the Anglia Square development will:

- **Increase NO2 levels at every receptor modelled by the developer except 1.** This is for 2028, 18 years after the UK should have met its legal requirements.
- **Maintain a very high, and illegal, level of NO2 on Magdalen Street:** the developers diffusion tube monitoring in 2017 already shows this area to be illegal, and at a level previously not acknowledged by the Council.
- **Other locations where existing breaches of law and regulation continue to 2028, and beyond,** in the modelling are Edward Street, New Botolph Street, Pitt Street and St Crispin's roundabout.
- **PM10 particulate levels, for 2028 with the development, at all modelled locations exceed the current WHO guidelines** although they would meet the current EU legislation.

5 In May 2018, Public Health Officers from Norfolk County Council raised concerns about the development, making the same points, with the planning officers, and stated:

"We are concerned that modelling of both current use and post-development use of the site indicates a number of locations which would fail to meet existing, never mind reduce current levels of, air quality standards in terms of NO2 and also fall above

current recommended WHO measures for PM10. In some cases the modelling suggests NO2 levels may exceed hourly as well as annual mean figures. These hourly exceedances represent potential risks to people who may work or shop in the area as well as pedestrians, cyclists and drivers.”

- 6 The developers Air Quality statement suggest some superficial mitigation within the development buildings. However, it does not approach how to mitigate the illegal levels modelled in 2028, and beyond 2028, on the local streets and community areas outside the buildings. These can expect very high pollutant levels and regulatory exceedances to continue into the 2030s and beyond with the development.

A completely different development that directly addresses migrating car usage in the area to other modes, including substantially reducing car parking provision in the development, is required to have a chance of

- a) reducing air pollutants to legal levels with the development, and
- b) to maintain legality, and reduce pollution further, in the years after 2028.

- 7 The Norwich City Council planning report implies that the developer’s Air Quality report figures are a “worst case”. **This is wholly unevidenced optimism: consistent with the Council’s year-on-year reduction rhetoric noted above, but totally at odds with reality.** The Inspector is expected to believe that Air Quality in the surrounding environment of Anglia Square can only get better, simply because the council have policies to reduce it. However, the *evidence of recent delivery against policy* argues against the council policy being effective in reducing air pollutants in recent years across the city and in the Anglia Square hinterland:

- NO2 pollution levels increase in 2107 at most measured hotspots as above including St Augustine’s street where the development is a long-term traffic and pollution generator. PM2.5 pollution also increased in 2017.
- NCC enacted a policy in 2015 to remove the most dirty buses from the city by 2018. They have failed to do this, and, alarmingly, it was recently reported that bus companies had instead imported the dirtiest diesel buses into the city, cast off from London and elsewhere. There is no case for optimism when the Council appears unable to enforce its own policy.
- National trends have also acted against local policy delivery with DEFRA reported in April 2019 that roadside PM10 and NO2 levels had not improved nationally since 2015.

- 8 In the light of all this, the development is contrary to:

I. NPPF2/180 and 181: extremely dangerous health pollutants increase with the development, and the development acts in the opposite direction to compliance with national laws and regulations for pollutants.

II. DM11.

III. The development moves away from legal and regulatory compliance. It therefore acts completely contrary to European and UK legislation that the UK must move to “compliance within the shortest possible time”, and which has been

repeatable enforced by the UK High and Supreme courts without any doubt of judicial opinion.

IV. The emerging consensus for health experts in the UK and around the world that air pollution is a major health problem killing 7million people worldwide and over 40,000 in the UK each year.

9 I suggest that this is the basis of a good case to the Inspector for Air Quality to be included in the Appeal, and subsequently for the development to be rejected on the basis of Air Quality.