



**TOURISM, COMMUNITIES, CULTURE AND LEISURE COMMITTEE
23rd JANUARY 2025**

REPORT TITLE:	REPORT ON THE PROPOSED CONFIRMATION OF THE NEW BOROUGH WIDE SMOKE CONTROL AREA.
REPORT OF:	DIRECTOR OF NEIGHBOURHOOD SERVICES

REPORT SUMMARY

This report proposes revoking the existing Smoke Control Orders and the making of a single Smoke Control Order for the whole of the administrative area under the provisions of the Clean Air Act 1993.

The proposals within this report are consistent with national guidelines and will assist the Council to achieve its objective of improving the air quality within Wirral to help to better the environment and the health and well-being of all residents and visitors to the area.

The report supports the Council Plan: Wirral Working Together 2023-27, specifically the 'Protecting our Environment' theme.

This is a Key Decision. The proposed consolidation will affect the whole of the borough but in particular, Clatterbridge and Bebington Wards.

RECOMMENDATION/S

The Tourism Communities, Culture and Leisure Committee is recommended to

1. note the objection made during the statutory public consultation process opposing the making of the proposed Smoke Control Order as referred to at paragraphs 3.12 to 3.14 of this report;
2. approve that, subject to confirmation by the Secretary of State for Environment, Food and Rural Affairs, the Director of Neighbourhoods be authorised to proceed with the process of:
 - a. revocation of existing Smoke Control Orders, which affect the Council's administrative area; and

- b. the making of a single Smoke Control Order to apply to the whole of the Council's administrative area in the terms of the draft order set out in Appendix 1 to this report.

SUPPORTING INFORMATION

1.0 REASON/S FOR RECOMMENDATION/S

- 1.1 The current smoke control regime can be confusing to officers, other users, and the public, as it is not always clear which properties are exempt, or if they should remain listed as exempt.
- 1.2 Consolidating existing Smoke Control Orders into a single Order covering the whole of the Borough will simplify the enforcement and control of pollution from smoke. Currently, an Enforcement Officer would have to search the records to identify if there is a Smoke Control Order which applies to the area, and if so whether the property in question is included in that order, which takes time.
- 1.3 The recommendations will assist in achieving three of the priority areas outlined in the Wirral Air Quality Strategy 2024-2028 - Priority Area 2- Improve indoor air quality, - Priority Area 4- Reduce domestic, commercial, industrial, and agricultural emissions and Priority Area 5- Raise public awareness and encourage behaviour change. The recommendations will also align with local and regional actions being taken to address the crisis faced, by helping to cut climate-damaging air pollution locally, in line with the Wirral Air Quality Strategy 2024-2028 and global targets.

2.0 OTHER OPTIONS CONSIDERED

- 2.1 One option would be to agree with the objection and proceed no further with the revocation of existing smoke control areas and the implementation of one single smoke control order covering the whole Council administrative area. The existing smoke control areas have achieved their initial goals, and still offer some controls on solid fuel combustion, however, trends have changed, and there is the potential for levels of pollutants outside of the initial aim of the legislation to increase if the situation remains the same. There would be no impact on the additional two wards that are currently not covered by existing smoke control orders.
- 2.2 Another option would be to agree with a suggestion made by the objector and undertake further public consultation prior to considering the revocation of existing smoke control areas and the implementation of one single smoke control order covering the whole Council administrative area. There would be additional resource implication for amending and re-posting the public notice around the borough, and additional cost associated with re-posting public notices in the two newspapers. The process of potential revocation and implementation of the new order would be delayed.

3.0 BACKGROUND INFORMATION

- 3.1 Defra's National Air Quality Strategy and Air Quality Action Plans set out how Government will improve and protect ambient air quality, as part of the creation of a sustainable environment.
- 3.2 The World Health Organisation has updated its health-based air quality guideline concentrations, due to a much stronger body of evidence showing how air pollution affects health at lower concentrations. The Government has set legal limits, known

as air quality objectives, for air pollution, in line with European Directives. In addition, new lower objective levels have recently been introduced for particulate matter. Councils in England have duties regarding local air quality management and must regularly review and assess air quality to determine whether objectives are likely to be achieved.

- 3.3 Although the air quality in Wirral does not exceed legal limits, no safe level of exposure to air pollution has been identified, below which there are no negative health effects. In Wirral, 4.9% of deaths are attributed to Air Pollution. The North-West average is 5.3% and the England average is 5.5%. The aim of the strategy is to reduce emissions and improve air quality across Wirral and it has been developed by collaborating with stakeholders across Wirral such as housing associations, community, voluntary and faith sectors, local businesses, the National Health Service, Schools, Chamber of Commerce and transport sector, to ensure that it represents the priorities of the local community.
- 3.4 Smoke Control Orders were initiated under various Clean Air Acts, initially in 1956, then updated under the Clean Air Act 1993. The initial act was created in response to the large number of deaths attributed to air pollution and smog in the winter of 1952. The Act enabled Local Authorities to enact Smoke Control Orders and to declare all or parts of their areas to be Smoke Control Areas. The Act itself can be seen to be a success, as air quality measurements show that the pollutants associated with smog have been very much reduced. Once declared as a Smoke Control Order, only 'Authorised Fuels' can be used, unless burned on an 'Authorised Appliance' or with an 'exemption' from the Council.
- 3.5 More recently, solid fuel use has changed from being coal, to mostly wood. This has resulted in an increase in emissions of small particulate matter, which has been determined to be a significant contributor to earlier mortality and an increase in associated illnesses, such as the risk of pneumonia, chronic obstructive pulmonary disease and lung cancer, as well as heart disease and stroke, leading to early death.
- 3.6 The 2019 UK Air Quality Strategy has focused on domestic solid fuel use and as a result several Councils are reviewing and consolidating their existing smoke control orders.
- 3.7 Wood-burning takes place in just 8% of UK homes, and yet is the second highest cause of particle pollution in the UK. It has grown by 35% in the last 10 years as more people install wood-burning stoves. Poor local air quality affects the health of those living and working in Wirral. The highest impacts on human health come from particulate matter but evidence for the effects of arsenic is growing as shown in the Chief Medical Officers Annual Report on Air Quality 2022. Wood burning also contributes to Carbon Monoxide, Carbon Dioxide and Nitrogen Oxide levels in the air.
- 3.8 Deaths in England linked to air pollution are estimated to be between 26,000 and 38,000 each year. Although air pollution can be harmful to everyone, the most susceptible to the effects of air pollution are typically the young, the old, and those with pre-existing health conditions. It particularly affects people living in more densely

populated and polluted areas, which are often areas of higher deprivation, which can widen health inequalities.

- 3.9 Short-term exposure to air pollution can exacerbate respiratory conditions such as asthma and chronic obstructive pulmonary disease. Long-term exposure can cause respiratory and cardiovascular disease, cancer, depression, dementia, diabetes, and can affect foetal development.
- 3.10 Wirral has had a minimal reduction in particulate matter pollution in the last 5 years and is expected to produce a 35% reduction by 2040.
- 3.11 At its meeting of 7 March 2024, this Committee resolved as follows:
1. the revocation of the existing Smoke Control Orders which affect the Council's administrative area be approved, subject to such revocations (listed in schedule 1 of the draft order) being subject to formal consultation and confirmation by the Secretary of State; and
 2. the making of a single Smoke Control Order for the whole of the Council's administrative area in accordance with the draft order set out in Appendix 1 to this report be approved, and also that such order be subject to formal consultation and confirmation by the Secretary of State;
 3. that any objections to the orders referred to in recommendations 1 and 2 be referred to a future meeting of this Committee.
- 3.12 The consultation, has been completed and one objection has been received regarding the making of a single Smoke Control Order. Defra has also received an objection to the Revocation Order from the same individual. As such, in compliance with Resolution 3 above, details of the objection are being referred to this Committee for its consideration.
- 3.13 The objection has three main points, which have been summarised, with a response, as:

1. No data demonstrating the need for the change

The objection states that there is no air quality data to support this change and no quantitative or qualitative evidence to support new restrictions and that this is a tidying up exercise, following the example set, and being set, by many Councils across the country.

Response

The Council has not undertaken local monitoring specifically on emissions associated with the burning of solid fuel, as there is no legal requirement to undertake such monitoring before a smoke control area is introduced.

The pollution associated with domestic burning of solid fuels is recognised nationally. The Air Quality Strategy: framework for local authority delivery states that nationally, domestic burning of solid fuels accounted for 27% of PM2.5 in

2021. This Strategy also states that Local Authorities should keep the boundaries of existing Smoke Control Areas under review, especially if development has taken place outside of the boundaries and that they should consider whether it would be beneficial to declare a new Smoke Control Area. This is why councils across the country are introducing new smoke control areas. In addition, the Strategy identifies that Local Authorities are also expected to enforce restrictions which apply within Smoke Control Areas. The Council has recently introduced a new procedure for the enforcement of smoke emissions from domestic premises within a smoke control area.

2. Badly designed and badly executed consultation process

The objection states that smoke control/air quality has never been an issue. Given this democratic deficit, it was incumbent on Council officials to effectively involve local residents and to explain why changes would bring perceptible benefits; this they have not done.

The objector could not observe public notices within 5 private sector settings that had agreed to display the notices.

The objector believes the Council should have written to all 700 dwellings in Raby to inform them, sent out advanced warning notice in the Electoral update letter, and held 'drop in' sessions.

Response

Schedule 1 of the Clean Air Act 1993 (as amended) outlines the requirements that Local Authorities must comply with regarding the coming into operation of a Smoke Control Area. These requirements are outlined in Section 5.1 to 5.5 of this report. The actions taken by the Council to meet these requirements are outlined in Section 8.1 to 8.4 of this report. The Council has met the legal requirements regarding notification of the revocation of existing smoke control orders and the introduction of a new 'whole borough' smoke control order.

3. No Impact Assessment

The objector is concerned that no proper impact assessment has been completed, and that this should have considered the following:

- a) The number of dwellings that will be affected.

Response

The exact number of dwellings within the Raby Mere, Thornton Hough, Raby, Brimstage and Storeton that are affected by the new Smoke Control Order has not been calculated. The Council has provided and published a map of the existing smoke control area and the new smoke control area.

- b) By how much the new regulations will change the air quality in the affected area and if it will be discernible to residents.

Response

Assessing the change in air quality in the affected areas is not a legal requirement and this information is therefore not available. The health impacts

of both short term and long-term exposure to pollution are well documented. The Chief Medical Officers annual report in 2022 was regarding air pollution, and it states that air pollution has negative effects on health throughout the life course, from pre-birth to old age. In addition, Public Health England stated within their document 'Health matters: air pollution' that there is no clear evidence of a safe level of exposure below which there is no risk of adverse health effects. Reducing levels of pollution emissions associated with wood burning will therefore have health benefits to our residents.

- c) The cost to residents of any necessary changes to their heating arrangements.

Response

The Council is not banning burning. It is following the process to introduce a borough wide Smoke Control Area which will require residents to burn authorised fuels. Residents may burn unauthorised fuels providing they use an 'exempted' DEFRA approved appliance, which is approved for use for burning of the specific fuel. DEFRA has published a list of exempted appliances to assist residents to determine if their appliances can be used to burn unauthorised fuels.

If residents do not want to make changes to their heating arrangements e.g. by installing an 'exempted' appliance, which would enable them to burn solid fuels such as wood, they are able to use non-exempted appliance to burn an authorised fuel. DEFRA has published a list of approved fuels for use in a smoke control area.

Any difference in cost between authorised and unauthorised fuel has not been specifically considered. The costs differences are variable and would depend on factors such as whether the heating appliance was used as a primary or secondary source of heat, the size of the property, number of occupants, the insulation properties of the house, the type of fuel used and the type of appliance being used etc.

- d) The ability of residents to pay for such changes to their heating arrangements.

Response

If residents do not want to change their heating arrangement or do not have the ability to pay to change their heating arrangements e.g. by installing an 'exempted' appliance, which would enable them to burn solid fuels such as wood, they are able to use non-exempted appliance to burn an approved fuel.

- e) The worry that residents may feel about the effect of power cuts.

Response

Residents are still able to plan for power cuts, by having exempt appliances in which to burn authorised and non-authorised solid fuels (in line with manufacturer's instructions) or by burning authorised fuels in non-exempt appliances.

- f) The problems arising for residents who have built up substantial stocks of household coal while it was still available.

Response

Since 1st May 2022, it has been an offence under the Clean Air Act 1993 (as amended) to:

- offer controlled solid fuel (which included bituminous (house) coal) for sale by retail, without taking reasonable steps to notify potential purchasers that it is an offence to acquire that fuel for use in a smoke control area.
- sell any controlled solid fuel by retail for delivery for use in a smoke control area.
- acquire any controlled solid fuel for use in a building to which a smoke control order applies.

Residents existing stocks of house coal can only be used within a smoke control area, using an exempted appliance, approved specifically for use for burning house (bituminous) coal. The manufacturer's instructions must be followed.

- g) The negative effect on residents' mental health from being denied the pleasure of gathering wood, gaining fresh air, and exercise from gathering and chopping the wood.

Response

This has not been considered in an impact assessment.

- h) No longer having the joy of seeing grandchildren's faces lit up as they see and feel a real fire.

Response

This has not been considered in an impact assessment.

3.14 An anonymised copy of the full objection is included in Appendix 2.

4.0 FINANCIAL IMPLICATIONS

4.1 As per the original Committee Report dated 7th March 2024, there was a financial implication however this report is purely around the consideration of the objection.

4.2 Any Council in Smoke Controlled Areas will receive funding from the Department for Environment, Food and Rural Affairs from 2023 until 2025 to meet new burdens

associated with their enforcement and management as introduced by the Environment Act 2021. The Council is using this funding to secure training, develop new processes, undertake assessments of the Councils estate and cover officer time.

- 4.3 Where there are Council actions, these will be delivered within business-as-usual operations or via capital funding bids. There may also be an opportunity to apply for future additional funding to deliver local improvements and projects from external partners.

5.0 LEGAL IMPLICATIONS

- 5.1 Pursuant to section 18 of the Clean Air Act 1993, and section 73 and Schedule 12 of the Environment Act 2021 the Council has the discretion to declare the whole, or any part of its area to be a smoke control area via a smoke control order.
- 5.2 Schedule 1 of the Clean Air Act 1993 sets out the procedure which the Council must follow to make a smoke control order. Before making an Order, the Council must publish in the London Gazette and once at least in each of two successive weeks in some newspaper circulating in the area to which the order will relate a notice:
- a. stating that the Council proposes to make the order, and its general effect;
 - b. specifying a place in the district of the Council where a copy of the order and of any map or plan referred to in it may be inspected by any person free of charge at all reasonable times during a period of not less than six weeks from the date of the last publication of the notice; and
 - c. stating that within that period any person who will be affected by the order may by notice in writing to the Council object to the making of the order.
- 5.3 In addition, the Council shall post and keep posted throughout the period mentioned in paragraph 5.2(b) above, copies of the notice in such number of conspicuous places within the area to which the order will relate as appear to them necessary for the purpose of bringing the proposal to make the order to the notice of persons who will be affected.
- 5.4 Schedule 1 of the Clean Air Act 1993 sets out the procedure which the Council must follow to make a smoke control order. If an objection is duly made to the Council within the six-week publication period, and is not withdrawn, the Council shall not make the order without first considering the objection. There is no requirement to provide air quality data to support the making of a Smoke Control Order.
- 5.5 Once the objection has been considered, if the delegation is approved, the order will be considered by the Secretary of State with a view to considering whether to confirm the order with or without modification.

6.0 RESOURCE IMPLICATIONS: STAFFING, ICT AND ASSETS

6.1 The Smoke Control Order can be implemented fully using existing staffing resources.

7.0 RELEVANT RISKS

- 7.1 As only two additional areas of the borough will be newly covered by the new Smoke Control Order, consolidating the existing areas has minimal risks, as the main outcome would be to clarify the requirements in respect of use of appliances and burning fuels in the existing areas.
- 7.2 If the existing Smoke Control Orders are not consolidated, there is a risk that the current ambiguous state of some Orders, could result in incorrect advice being given to members of the public. It also takes officer time to go through the Orders each time try to make sure information given out is accurate.
- 7.3 As the pollutant of concern has changed since the Orders were made, the consultation required to consolidate them, provides an opportunity to review the extent of the problem, and at the same time, raise awareness of the issues around solid fuel combustion. This is a key policy in the Government's UK Air Quality Strategy and could be missed if Orders are not consolidated.
- 7.4 At present, combustion control is contained within several pieces of legislation and consolidating the Smoke Control Areas can in some situations provide an adequate means of control, with less bureaucracy and cost to the Council and some operators, which could be missed if the Orders are not consolidated.
- 7.5 There is a potential reputational risk arising from would be objectors misrepresenting or misunderstanding the important environmental aims and objectives of this initiative. This risk will be managed and mitigated through detailed engagement and liaison with colleagues in the Communications and Marketing team to ensure that accurate and up to date information is prepared for release as appropriate that reflects the importance of this scheme to air quality and health and well-being across the borough
- 7.6 The risks will also be monitored by the Environmental Health team and any risks will be escalated via the Directorate Risk Register.

8.0 ENGAGEMENT/CONSULTATION

- 8.1 The in-principle decision to declare a new Smoke Control Order required a period of consultation. This was undertaken between 18th September 2024 and 12th November 2024. This consultation also created the opportunity to raise awareness of Smoke Control Areas and solid fuel combustion.
- 8.2 To ensure compliance with the requirements of the Act regarding the notification process for revocation of existing smoke control areas and introduction of a single Smoke Control Order for the whole of the Council's administrative area the Officers undertook numerous actions, which are summarised below.
- 8.3 Summary of the actions taken as part of "consultation":

- Published a Public Notice in London Gazette on 18th September 2024 and 25th September 2024;
- Published a Public Notice in Wirral Globe on 18th September 2024 and 25th September 2024;
- Posted information on the Council website regarding Revocation and Implementation of the new Smoke Control Order. Frequently Asked Questions were also provided;
- Issued communications from Wirral Council in Wirral View 27th August 2024 about the processes;
- Issued communications out on Wirral Facebook page 28th August 2024 about the processes;
- Provided a copy of the public notice, maps of existing and new Smoke Control Areas and the draft order and revocation order provided for free viewing at Birkenhead Town Hall during notification period starting 18th September 2024;
- Contacted, by email, the 5 Councillors whose wards will be affected by new smoke control areas, as they are not currently within one. Informed them of the revocation / new order and provided a copy of the public notice;
- Posted Public Notices in 34 public, council-controlled locations including notice boards in parks, gardens and cemeteries and notice boards in libraries;
- Hand delivered Public Notices to 12 private sector and 1 NHS locations. Each settings agreed to display them at the time of delivery;
- Contacted a local Community Trust on 16th September 2024 and asked if they would contact their membership and disseminate copies of the public notice. They confirm they would;
- After a request from a member of the public, re-contacted a local Community Trust on 21st October 2024, and offered to attend a drop-in session, if they could help facilitate this. No response to this request was received.

8.4 The Council's Media and Marketing sections released communications in Wirral View, the Wirral Globe, and on the Council's Facebook page, to raise public awareness.

8.5 The Council has been running a Defra funded 'Breathe Better' campaign during 2023/2024, which focussed on domestic burning and provided targeted advice to Wirral residents on how to burn better.

9.0 EQUALITY IMPLICATIONS

9.1 Wirral Council has a legal requirement to make sure its policies, and the way it carries out its work, do not discriminate against anyone. An Equality Impact Assessment is a tool to help council services identify steps they can take to ensure equality for anyone who might be affected by a particular policy, decision or activity. An Equality Impact Assessment, named EIA Smoke Control Areas, has been undertaken and can be found at: <https://www.wirral.gov.uk/communities-and-neighbourhoods/equality-impact-assessments>. It has been reviewed and is still valid for this report.

9.2 There will be no impact on most residents or groups as this is a consolidation of the legal controls and requirements required to be taken in those areas with existing Smoke Control Orders into one single order.

- 9.3 However, there could be a negative impact for residents suffering fuel poverty, specifically those who are driven to “foraging” for wood in parks and gardens to burn in their properties for heat. Foraged fuels are unsuitable for burning in a domestic property and there is a risk to the residents’ health from poor indoor air quality, carbon monoxide poisoning and fire. Those affected most by poor air quality are people with existing medical conditions, the young and the elderly and so these groups will receive the greatest positive benefit.
- 9.4 Authorised solid fuels are designed to be more efficient when burnt so are cheaper than using coal and therefore there will not be negative financial impact for most residents. Residents will also be signposted to government and charitable organisations for advice regarding fuel poverty as part of the public consultation and related material.

10.0 ENVIRONMENT AND CLIMATE IMPLICATIONS

- 10.1 The declaration of a new Smoke Control Area will allow for more efficient enforcement of the Clean Air Act 1993 (as amended by the Environment Act 2021) by Council officers. This includes the enforcement of the prohibition of emissions of smoke from properties and the prohibition of sales of non-authorized fuels in the Smoke Control Area’s.
- 10.2 The declaration of a new Smoke Control Order requires a period of consultation, which created the opportunity to raise awareness of Smoke Control Areas and solid fuel combustion. It is hoped that this triggered behaviour changes and residents will choose to use smokeless fuels in their domestic burners.
- 10.3 These actions will reduce the emissions of particulate matter into the atmosphere and improve the overall air quality of Wirral.
- 10.4 Emissions such as Carbon Dioxide, Carbon Monoxide and Nitrogen Oxides arise from wood burning and contribute to global warming. Any reduction in greenhouse gases will support the target of Cool Wirral for the borough to be net zero carbon by 2041.

11.0 COMMUNITY WEALTH IMPLICATIONS

- 11.1 In the UK, the single biggest source of particulate matter air pollution (PM2.5) is from domestic burning. This makes it a significant risk to public health. Everyone is at risk from particulate matter air pollution, but people are more vulnerable if they have COPD, asthma or other lung conditions or are elderly or a child. Particulate matter air pollution can cause coughs, dizziness, inflamed airways and shortness of breath. It increases the risk of pneumonia, COPD and lung cancer, as well as heart disease and stroke, leading to early death. It can also impact pregnancy and the development of children’s lungs. The declaration of a new Smoke Control Area, covering the whole of Wirral’s administrative area, will therefore have positive public health impact thus reduce the burden on the NHS, improving health and reducing the health inequity gap on the borough.

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APPENDICES

1. Draft Smoke Control Order.
2. Anonymised copy of the objection received.

BACKGROUND PAPERS

1. The Clean Air Act 1993, Section 18 and Schedule 5
2. The Environment Act 2021, Section 73 and Schedule 12
3. Guidance to local authorities on the application of smoke control areas to moored vessels under the Environment Act 2021.
4. Smoke Control Area Enforcement by Local Authorities in England: Statutory Guidance.
5. Wirral Air Quality Strategy, 2024 – 2028, A four-year vision to improve air quality in Wirral.
6. The Air Quality Strategy for England, Scotland, Wales and Northern Ireland.
7. Chief Medical Officers Annual Report 2022. Air Quality.
8. National Air Quality Strategy 2019.
9. The Wirral Working Together Plan 2023-2027.
10. WHO Global Air Quality Guidelines.
11. Research to understand burning in UK homes and gardens - AQ1017.
12. The National Air Quality Strategy: framework for local authority delivery.
13. Emissions of air pollutants in the UK – Particulate matter (PM10 and PM2.5) - GOV.UK.
14. Public Health England. Health matters: air pollution. 14 November 2018.

TERMS OF REFERENCE

This report is being considered by the Tourism, Communities, Culture and Leisure Committee in accordance with Section 6.2(i)(vi) of its Terms of Reference, The Committee is charged by full Council to undertake responsibility for the Council's role and functions: (i) for trading standards and environmental health, including but not limited to: (vi) air pollution control;

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Tourism, Communities, Culture and Leisure Committee	7 th March 2024

Appendix 1 – Draft Smoke Control Order

WIRRAL METROPOLITAN BOROUGH COUNCIL

SMOKE CONTROL ORDER 2024

CLEAN AIR ACT 1993, SECTION 18

Wirral Metropolitan Borough Council (“the Council”) of PO Box 290, Brighton Street, Wallasey, CH27 9FQ in the exercise of its powers under Section 18 of the Clean Air Act 1993 (“the Act”) hereby make the following Order:

1. This Order may be cited as the Wirral Metropolitan Borough Council Smoke Control Order 2024. It will come into operation on **xx xxxxxx** 2024.
2. The Council declares the whole of its district to be a Smoke Control Area (“the Smoke Control Area”). The extent of the Smoke Control Area is shown on the plan annexed at Schedule 1 to this Order.
3. All of the existing Smoke Control Orders listed in Schedule 2 and any others referring to areas within the administrative area of the Council are hereby revoked, insofar as they apply to Wirral Metropolitan Borough Council, on the day that this Order comes into operation.
4. In the whole of the Smoke Control Area created by this Order, the operation of Section 19A and Schedule 1A of the Clean Air Act 1993 (Penalty for emission of smoke in smoke control area) shall be applicable to all buildings.
5. Other than exemptions made by the Secretary of State under Section 19C and Section 19D of the Act, there are no buildings or classes of buildings or fireplaces or classes of fireplaces in the Smoke Control Area that are exempt from the operation of Section 19A and Schedule 1A of the Act.

Dated this day **xx** of **xxxxxx** 2024.

The COMMON SEAL of
WIRRAL BOROUGH COUNCIL
was hereunto affixed in the presence of:

Authorised Officer

Appendix 2 - Anonymised copy of the objection received.

Objection

I am writing to object to the proposed Smoke Control Order as propounded in the notice signed by Paul Satoor, Chief Executive of Wirral Borough Council, and dated 9 September 2024.

The key effect of the proposed Smoke Control Order would be to bring under smoke control regulations circa 700 dwellings in rural parts of Wirral: Raby Mere, Thornton Hough, Raby, Brimstage and Storeton.

Grounds for my objection

4. No data demonstrating the need for the change

The Council has not provided any air quality data to support this change. It is therefore clear to me that this is: i) a tidying up exercise, ii) following the example set, and being set, by many Councils across the country and iii) an outcome of the Environment Act 2021 – to be seen to be taking action. There is no quantitative or qualitative evidence to support the new restrictions.

5. Badly designed and badly executed consultation process

Notices were, I am told, placed in the Wirral Globe, the only local newspaper on Wirral. However, this is not delivered to the affected residents.

For the 290 dwellings (40% of the total affected) in Raby Mere, the Council deemed it sufficient to send one notice to Bromborough Golf Club (which is adjacent to Raby Mere). However, this is not on public display; I was told, on enquiring (on Wednesday 2nd October 2024) that it is displayed in the locker room. Not being a member, I have not been able to verify this. The Council told me that notices had been sent to other locations. On my tour of inspection on 2nd October, I found the following:

- nothing on show at the Londis shop at Clatterbridge
- nothing on show at Claremont Farm, Clatterbridge
- bar staff at the Seven Stars in Thornton Hough had received the notice but it was not on display
- bar staff at the Wheatsheaf in Raby knew nothing about a notice
- two members of staff on Reception at the Thornton Hall Hotel knew nothing about the notice

I asked the Council to write to all 700 dwellings but the Council refused.

The Council could easily have put some form of advance warning notice in the Electoral Register update letter sent a few weeks before the official consultation timetable came into force.

Belatedly (at 21 October) and under some pressure from me and a local Councillor, the Council is trying to involve the Thornton Hough Community Trust in holding some form of “drop-in” session. Such a sessions should have been organised from the outset utilising one of the three halls in Thornton Hough for concerned residents to speak to informed Council officials to:

- a. understand the Council’s rationale for the proposed changes

- b. assimilate the implications of the proposed new Smoke Control arrangements in their particular circumstances
- c. understand reasons for the timescale; eg residents may hold substantial stocks of household coal
- d. be given advice as to alternatives to open fires etc and the fuels that can be used in future
- e. understand on what grounds they can object and how such objections will be processed

At the time of writing, I am not aware of any such sessions being arranged.

I have been closely involved with local elections for the past 20 years. Smoke control/air quality has never been an issue. Given this democratic deficit, it was incumbent on Council officials to effectively involve local residents and to explain why changes would bring perceptible benefits; this they have not done.

3. No Impact Assessment

I am concerned that no proper impact assessment has been made for this initiative. Has the Council considered the following issues?

- i) Number of dwellings which will be affected
- j) By how much will the new regulations change the air quality in the affected area? Will such a change be discernible to residents?
- k) The cost to residents of any necessary changes to their heating arrangements
- l) The ability of residents to pay for such changes (capital spending and running costs) especially given the very high costs of electricity and gas compared to a few years ago; now the 10% increase to the Energy Price Cap and the widespread withdrawal of the Winter Fuel Allowance
- m) The worry that residents may feel about the effect of power cuts. After a sequence of power cuts some years ago, I was told by Scottish Power that I live in a rural area and should expect power cuts from time to time. Now we are told to expect more severe weather events as a result of climate change; these will surely lead to more frequent power cuts. At a national level, I think that we are increasingly vulnerable to power outages. At one time last winter, the UK consumed 47GW and produced only 40GW so we were heavily reliant on other countries to keep going. Since then we have lost our last remaining coal-fired power station and nuclear capacity is trending downwards. I would like to make my own arrangements for survival in the traditional way – open fire and candles
- n) The problems arising for residents who have built up substantial stocks of household coal while it was still available
- o) The negative effect on residents mental health being denied the simple pleasure of gathering wood from their gardens and from verges on rural lanes in their neighbourhood, gaining fresh air and exercise; then more exercise from cutting and storing wood; and lighting a fire, tending it and reading a book before its comforting warmth and lively presence
- p) No longer having the joy of seeing grandchildren's faces lit up as they see and feel a real fire – something experienced by humans for thousands of years

Conclusion

Having considered the points which I have made above, I trust that the Tourism, Communities, Culture and Leisure Committee will refuse the proposed Smoke Control Order. Perhaps then Wirral Borough Council will suspend its plans regarding smoke control orders and, if need be, start a new process to seriously engage with local residents.