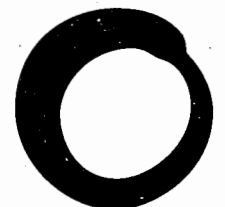


Commissioner Stavros Dimas  
Commissioner for the Environment  
European Commission  
Rue de la Loi 200  
Brussels 1048



**Friends of  
the Earth**

28 October 2009

Dear Commissioner Dimas,

**Air Quality: UK time extension notification under Directive 2008/50/EC**

We comment specifically on the UK's notification in relation to zones in Wales and London, where we have worked directly. In both cases, we believe it is clear that the conditions for applying for an extension have not been met, and thus the extensions should not be granted.

**1. Greater London Zone**

It is not clear that any of the conditions for extension set out in Article 22 are satisfied in relation to this zone. Of particular concern is that the Mayor of London's Air Quality Strategy is relied upon as the action plan that will ensure that the limit values are met by June 2011. The draft Strategy was recently published<sup>1</sup>, and whilst we welcome some of the proposals, overall the Strategy does not constitute a credible plan to meet the limit values across the zone by the required date.

The Strategy includes much uncertainty – the impacts of the proposals are not quantified in terms of expected emissions reductions, and there is an apparent lack of funding to actually carry out the proposals. For example, at page 30 the Strategy states "*The further package of transport measures proposed is not currently included in the TfL [Transport for London] Business Plan and it will thus be important to identify how the necessary action will be funded and delivered.*"

Whilst clearly the authority is able to select which measures to implement to achieve the limit values, the Strategy replaces existing measures having proven benefits on air quality with less certain measures that have not been adequately quantified in terms of likely impacts. We give two examples of this problem. First, the Mayor's proposals to remove the Western Extension to the Congestion Charge. This measure is currently having a proven beneficial effect on traffic and air quality, and there are no clear proposals to mitigate the effect of removing it (the Strategy refers simply to mitigation through "*a number of other measures set out in this Strategy*" – page 40.) Second, the delay of Phase 3 of the London Low Emissions Zone. This measure was ready to go with an expected start date of October 2010, but has been delayed to 2012. At page 49 the Strategy states: "*While delaying the implementation of Phase 3 will reduce its benefits to some extent... The Mayor considers that this approach strikes an appropriate balance for London between*

<sup>1</sup> [http://www.london.gov.uk/mayor/environment/air\\_quality/index.jsp](http://www.london.gov.uk/mayor/environment/air_quality/index.jsp)

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*environmental and economic objectives.*” This ignores the fact that meeting the limit values is not an option that can be weighed against other economic factors, but a minimum legal standard which must be met for protection of human health.

## **2. Swansea Urban Zone**

We do not believe that any of the conditions for extension set out in Article 22 are satisfied in relation to this zone. We raised these issues with the UK Government during the consultation on the draft notification to the Commission.

Within the Swansea Urban Zone, there is only there is only one location where the limit values have been breached. That area is Port Talbot, a residential area located next to a steelworks, which experiences high levels of both economic deprivation and industrial pollution. Following a legal challenge by a resident of Port Talbot during early 2008, represented by lawyers from Friends of the Earth’s Rights & Justice Centre, the Welsh Assembly Government drew up, consulted on, and began implementation of an action plan to bring annual exceedances below the EU limit.

### ***a. Conformity with the limit values can be achieved***

According to the Welsh Assembly Government, the limit value was met in 2008. We attach a copy of a letter sent to a resident of Port Talbot by Jane Davidson Welsh Assembly Minister for the Environment, confirming this, and confirming that she has already instructed her officials to continue work on the action plan to further reduce PM10 levels in the area. On this basis alone, an extension of time cannot be granted to meet the limit value in Port Talbot.

### ***b. All appropriate measures have not yet been taken in relation to the Port Talbot exceedances***

Despite the clear risk of exceedance in the area since the original Air Quality Directive (96/62/EC) was published, an Action Plan as required under Article 7(3) of the Directive (implemented in the Air Quality Limit Values (Wales) Regulations 2002, replaced by the Air Quality Standards (Wales) Regulations 2007, Regulation 11) had never been produced. As stated above, in response to legal action by a local resident an Action Plan has recently been produced and the Welsh Assembly Government is committed to implementation of that plan. There is significant scope for continued action under that plan.

### ***c. Transboundary effects are not preventing achievement of the limit value***

We can find no detailed explanation of why the UK Government is now asserting that the limit values cannot be achieved because of transboundary effects. In fact, even on the data in the notification, transboundary effects are negligible compared to domestic contributions, most significantly, industrial pollution. The Welsh Assembly Government, Environment Agency and local council have all consistently stated that the main cause of the exceedances in Port Talbot is the steelworks.

The issue of any contribution from transboundary effects has at no point been raised until this application, hastily drawn up, according to the Impact Assessment, because *“This will avoid disproportionate costs of immediate mitigation action and prevent infraction by the Commission”*. At paragraph 314 the consultation document makes clear that the Port Talbot “exceedance situation” has only been included in the proposed application for an extension of time *“because of the additional uncertainties associated with the industrial emissions, which are important at this site.”* This is not a valid reason for requesting an extension under Article 22(2) of the Directive.

**3. Public participation**

Although not a formal condition for applying for an extension under the Directive, we also draw your attention the lack of participation by the worst affected communities in the process of applying for the extension. Although a written consultation documents on the proposed notification was published at national level, there was no specific consultation of the people living in the (relatively small) areas currently experiencing the worst air quality, who will continue to suffer for longer if the extensions are granted. We have also raised this issue with the UK Government.

For these reasons we urge the Commission to reject the UK's application for an extension in these zones, and to scrutinise rigourously the application as it relates to the other zones.

Yours sincerely,

*Friends of the Earth*

**Friends of the Earth Rights & Justice Centre**

Cc Philip Owen, Head of Unit, Directorate C - Climate Change & Air

Enc Copy of letter from Welsh Assembly Minister for the Environment

Jane Davidson AC/AM

Y Gweinidog dros yr Amgylchedd, Cynaliadwyedd a Thai  
Minister for Environment, Sustainability and Housing



Llywodraeth Cynulliad Cymru  
Welsh Assembly Government

Ein cyf/Our ref JD/00211/09

[Redacted]

3 March 2009

Dear [Redacted],

Thank you for your email of the 31<sup>st</sup> January 2009 in respect of particulate pollution Pm10 in the Neath Port Talbot area attaching your letter to my officials of the 26<sup>th</sup> January.

You will be aware that following independent advice, Welsh Ministers accepted that there was a potential risk that PM10 levels within the Neath Port Talbot Air Quality Management Area may exceed the relevant daily mean air quality standard for Particulate matter in 2008. As Competent Authority, Welsh Ministers therefore implemented a short term air quality action plan for the South Wales zone incorporating a local plan of action in respect of PM10 levels in Neath Port Talbot.

The aim of the plan is to reduce the risk that a relevant air quality limit value or alert threshold will be exceeded; or where it is not possible to prevent the occurrence, to limit its duration or severity. Provisional data for 2008, while subject to validation, is encouraging in that air quality in the area has met the required air quality standards for 2008. However, I believe that further measures are needed to improve ambient air quality in the area, and I have instructed my officials to continue taking forward those measures in partnership with Neath Port Talbot Borough Council, the Environment Agency Wales and other key stakeholders.

As you will be aware, from January 1997 until July 2007 continuous automatic air pollution measurements were made at the Groeswen Hospital location. The site was originally commissioned by Neath Port Talbot County Borough Council, in accordance with responsibilities prescribed under the Local Air Quality Management (LAQM) regime which places a duty on local authorities, to monitor and assess air quality in their boundaries under Part IV of the Environment Act 1995, to assess and manage air quality within their boundaries.

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PM10 environment within the area and assist in maximising the effect of mitigation measures.

The Welsh Assembly Government is committed to continuing a multi-agency approach to tackling the particulate matter issues within Neath Port Talbot. Following my request, the Rt Hon Lord Smith of Finsbury, Chairman of the Environment Agency has recently visited the area and you will be aware that I have asked both environmental regulators for the site, the local authority and the Environment Agency to undertake a review of environmental permits held at the steelworks site. My officials are currently considering that work and we propose to publish that work later in the spring, following consideration.

In addition to further monitoring in the area, my officials have recently awarded a contract, though an open competitive tendering process, to provide an independent review of monitoring measures undertaken in Neath Port Talbot in respect of Particulate Matter PM10 to the University of the West of England. The principal objective of this project is to provide a comprehensive independent review of the monitoring, modelling, source apportionment and atmospheric particulate characterisation work which informed and/or investigated the issues associated with those that led to the declaration of the Neath Port Talbot County Borough Council Air Quality Management Area in 2000. The project will provide advice to me and other Ministers on the identification of potential source/s of PM10 within the local area that may be contributing to the elevated concentrations observed in the AQMA based upon the review of existing work undertaken and provide advice to the Welsh Assembly Government on further measures that may be implemented. I have asked that my officials make available the evidence that you have provided through your correspondence to that review. That independent review is due to be completed in the spring and following considerations of its findings the Welsh Assembly Government intends to publish that report through our website

Ensuring that we take the appropriate action is paramount, that action must be built on a sound evidence base to ensure that measures are targeted and effective both in the short term and for the future.

I hope this is helpful,

Yours,



**Jane Davidson AM**

Y Gweinidog dros yr Amgylchedd, Cynaliadwyedd a Thai  
Minister for Environment, Sustainability and Housing