

Report to Environment and Licensing Committee

Subject: Consultation on a Borough Wide Smoke Control Area Declaration

Date: 03rd October 2023

Author: Head of Environment

Wards Affected

All wards

Purpose

To seek approval to:

1. Carry out a public consultation on a proposal to declare the Borough as a Smoke Control Area; ultimately replacing the existing orders.
2. Publish a notice and draft order for comment.

Key Decision

This is not a key decision

Recommendation(s)

THAT Members:

- 1) **Approve a public consultation on the draft order at Appendix B for a period of 6 weeks.**
- 2) **Approve the publishing of a notice and draft order in the London Gazette and a local newspaper for two consecutive weeks.**

1 Background

- 1.1 There are currently 41 Smoke Control Areas (SCAs) in Gedling Borough that have been declared between 1962 and 1994. These orders geographically cover only 21% of the Borough but include 81% of the residential properties.

No amendments to these orders has taken place since their creation.

- 1.2 The areas (see Appendix A) cover most of the urban area and Calverton, Newstead and Bestwood villages. The current SCAs do not cover the villages of Ravenshead, Linby, Papplewick, Lambley, Woodborough, Burton Joyce and Stoke Bardolph.
- 1.3 Smoke Control Areas (SCAs) make it an offence to emit smoke from a chimney within the area.
- 1.4 Households using an exempt appliance or authorised 'smokeless' fuel should not produce smoke, so would not be subject to enforcement action.
- 1.5 The changes proposed do not impact on people who wish to have bonfires as this is covered by different legislation. However, the proposed publicity campaign would look to discourage bonfires by including messaging about the impact that bonfires can have on air quality and health.
- 1.6 Solid fuels are by far the most polluting method of domestic heating, and wood burning has increased in popularity over recent years. Reasons for burning wood and other solid fuels vary, and include aesthetic as well as practical, ecological or economic reasons.
- 1.7 For air pollution emissions, there is substantial difference between the different open fire and stove designs, the age of the appliance and how well maintained it is, and the moisture content of the wood, for those who want to burn wood. In built up areas, burning wood has the potential to worsen local air quality significantly.
- 1.8 Domestic combustion is a major source of particulate matter emissions in 2021, accounting for 27% of PM2.5 emissions. Most emissions from this source come from households burning wood in closed stoves and open fires.

In the 1970s, 1980s and 1990s, coal use in domestic combustion was the largest source of particulate matter emissions; coal now accounts for a very small proportion of emissions from this source (13% in 2021), while the use of wood as a fuel accounted for 75% of PM2.5 emissions from domestic combustion in 2021.

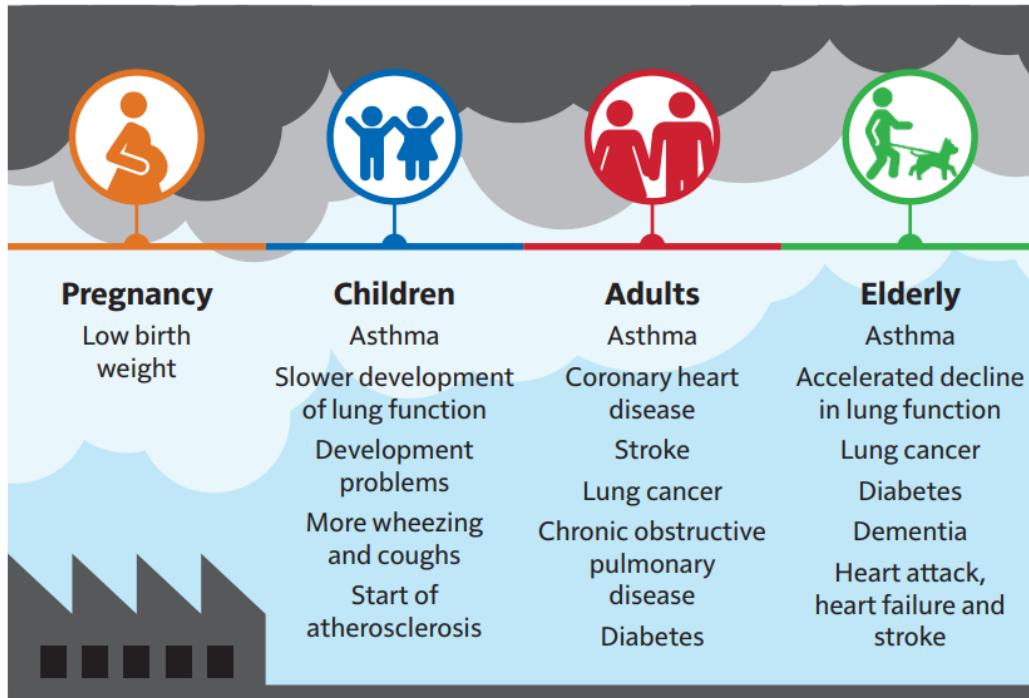
The sale of traditional bituminous house coal was banned in England starting 1 May 2023. This ban applies to all types of house coal, be it bagged, loose, or in open bags.

Emissions of PM2.5 from domestic wood burning increased by 124 per cent between 2011 and 2021, to represent 21% of total PM2.5 emissions in 2021.

Source: [Emissions of air pollutants in the UK – Particulate matter \(PM10 and PM2.5\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/emissions-of-air-pollutants-in-the-uk-particulate-matter-pm10-and-pm25)

- 1.9 Fine Particulate Matter (PM10 and PM2.5) is considered a particularly harmful pollutant with regard to human health.

The health impacts of air pollution



Source: Air Pollution - [Chief Medical Officer's Annual Report 2022 \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

- 1.10 The Environment Act 2021 established a legally binding duty on government to bring forward two new air quality targets for PM_{2.5}. (annual mean concentration and population exposure reduction)

The air quality targets set are:

Pollutant & metric	Target	Target year
PM _{2.5} annual mean concentration	Interim target: 12 $\mu\text{g}/\text{m}^3$	2028
PM _{2.5} annual mean concentration	Legally binding target: 10 $\mu\text{g}/\text{m}^3$	2040
PM _{2.5} population exposure	Interim target: 22% reduction in exposure compared to 2018	2028
PM _{2.5} population exposure	Legally binding target: 35% reduction in exposure compared to 2018	2040

Source: Environmental Targets (Fine Particulate Matter) (England) Regulations 2023

- 1.11 Although the above targets are not currently the direct responsibility of local authorities, The Government [Air quality strategy: framework for local authority delivery - GOV.UK \(www.gov.uk\)](https://www.gov.uk) states:

'We have been clear in guidance to local authorities since 2016 that we expect local authorities to use their powers to reduce PM2.5.

We still have not seen sufficient action from the majority of local authorities. In light of the new targets, if we consider further action to be insufficient, we will consult on introducing a standalone legal duty on local authorities to take action to reduce PM2.5 emissions.'

- 1.12 This proposal provides a mechanism to control the burning of the dirtiest forms of solid fuel and the appliances that they are burned in. It assists in reducing PM2.5 levels in the Borough and helps Government with their emission reduction targets.

Ultimately, the proposal is also likely to result in positive public health impact.

- 1.13 The making of a borough-wide smoke control order will help support the enforcement of the new domestic fuel regulations providing an effective and *level playing field* approach to tackling smoke pollution.
- 1.14 At this time it is proposed that the new order would **not** also encompass moored vessels on the River Trent. It is understood that GBC have 3 leisure moorings controlled by The Canals and Rivers Trust at Stoke Bardolph Lock. These are not permanent moorings and so there is not considered to be a significant impact at his location.
- 1.15 To coincide with the declaration of the new SCA officers will work to ensure residents are informed of the changes and what this means for them. This will be done through the consultation process with additional publicity through the Council's communications channels to ensure that people are aware of the changes and the implications of this.
- 1.16 Long term benefits from having a borough-wide smoke control order will be a reduction in the quantity of PM2.5 produced in the Borough, resulting in cleaner air and health benefits for those who live and work in the Borough.
- 1.17 There is a consultation process required by the Clean Air Act 1993 before a Smoke Control Order can be made or amendments/revocations of existing orders as outlined in the Clean Air Act and Statutory Guidance.
- 1.18 When creating a new order the Council are required to publish a notice stating that the local authority propose to make the order and its general effect and specifying where a copy of the order can be obtained. This notice must be published in the London Gazette and in a local newspaper for two consecutive weeks.

The consultation period shall not be less than 6 weeks from the date of the last publication of the notice. Throughout the consultation period copies of the notice should be posted in several places in the relevant area(s) to ensure people who will be affected are aware of the proposal.

- 1.19 Any objections received must be considered during the consultation process. If any objections are received and not withdrawn, the Council cannot make the order without first considering the objection. At the end of the consultation period the Secretary of State is empowered to confirm the order with or without any modifications.
- 1.20 In the event that the Council resolves to make the new smoke control order it cannot come into effect earlier than 6 months from the date of making. This date may be postponed, subject to a resolution to that effect being passed and suitable publicity in line with that set out in the legislation (Schedule 1, Clean Air Act 1993).

2 Proposal

- 2.1 That Members approve a public consultation on the draft order for a period of 6 weeks
- 2.2 That Members approve the publishing of a notice and draft order in the London Gazette and a local news paper.
- 2.3 This will ensure consistency in relation to the legal restrictions of burning solid fuel and the type of equipment that can be used.

3 Alternative Options

- 3.1 To not approve the notice and consultation on the draft Smoke Control Order covering the whole of the Borough and to leave the current 41 orders in place. However this will mean that 19% of the borough's residential addresses are not covered by smoke control areas.

4 Financial Implications

- 4.1 There are not considered to be any significant budget implications besides officer time in setting up the new order, advertising the new order and providing publicity around it. The publicity will predominantly be online using social media and the website.

Operationally any enforcement will be managed within the existing team budget. If further grant funding becomes available additional publicity and targeted enforcement would be carried out.

5 Legal Implications

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

5.2 A smoke control order -

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

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

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

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

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

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

6 Equalities Implications

6.1 People with certain protected characteristics (the old, young and those with certain disabilities) are more vulnerable to air pollution. People in vulnerable groups are also known to live in areas with more air pollution, so the proposal may have a differentially positive impact on these groups.

6.2 However, fuel poor households could be affected if using an open fire or burning cheap wood as a source of heating as opposed to more expensive electricity, gas or oil.

The Environmental Health and Technical Officers regulating this function have access to the information to refer residents for home energy efficiency and heating measures to mitigate any detrimental impacts on fuel poor households. It is considered that the environmental, air quality, and health benefits of implementing this function outweigh any detrimental effects for fuel poor households.

- 6.3 The proposal would mean that people could only burn clean seasoned wood with the 'ready to burn' logo in exempt appliances, or an authorised fuel. This would be more expensive for people who were reliant on foraging for wood as their main source of fuel.
- 6.4 The proposal would not have any implications on the 81% of the boroughs residential properties already covered by SCAs as they are already subject to the rules, the proposal just brings the rest of the borough in line with this. Most modern, recently installed appliances would also already be compliant.

7 Carbon Reduction/Environmental Sustainability Implications

- 7.1 The proposal aims to improve local air quality by introducing better control of solid fuel burning that contributes to 21% of local particulate pollution.
- 7.2 Solid fuel can be burned sustainably if it is replaced like for like, although there are greener forms of heating should be encouraged over solid fuel. The proposal will encourage people not to burn solid fuel from unsustainable sources, helping to contribute to a net zero carbon Borough.
- 7.3 With a revival in the popularity of 'real fires' there are a number of solid fuel burning stoves in the market that comply with the legislation, and many already in use across the Borough are likely to be compliant.

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

8 Appendices

- 8.1 Appendix A - Map of current SCAs
- 8.2 Appendix B - Draft Order

9 Background Papers

- 9.0 None

10 Reasons for Recommendations

- 10.1 The Council has a duty to assess air quality and where necessary take appropriate action to protect the health of those living and working in the Borough.
- 10.2 PM2.5 concentrations and other toxic emissions are closely associated with domestic burning. PM2.5 has a significant impact on human health it 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.

- 10.3 Smoke Control Areas can help to reduce PM2.5 emissions found in chimney smoke by requiring the use of either authorised fuel or by using Defra 'exempt appliances' for example certain burners and stoves. Unauthorised fuel must not be used in a smoke control area unless it is used in an exempt appliance.
- 10.4 Although a Borough wide smoke control area will not ban domestic solid fuel burning, it will require residents to take responsibility over the fuels they burn. In addition, any new solid fuel stove installations are much more likely to be 'exempt appliances'. This is because reputable stove installers currently advise householders in Smoke Control Areas to install Defra 'exempt appliances' or 'Ecodesign' appliances which already meet stricter smoke emission standards.

Statutory Officer approval

Approved by:

Date:

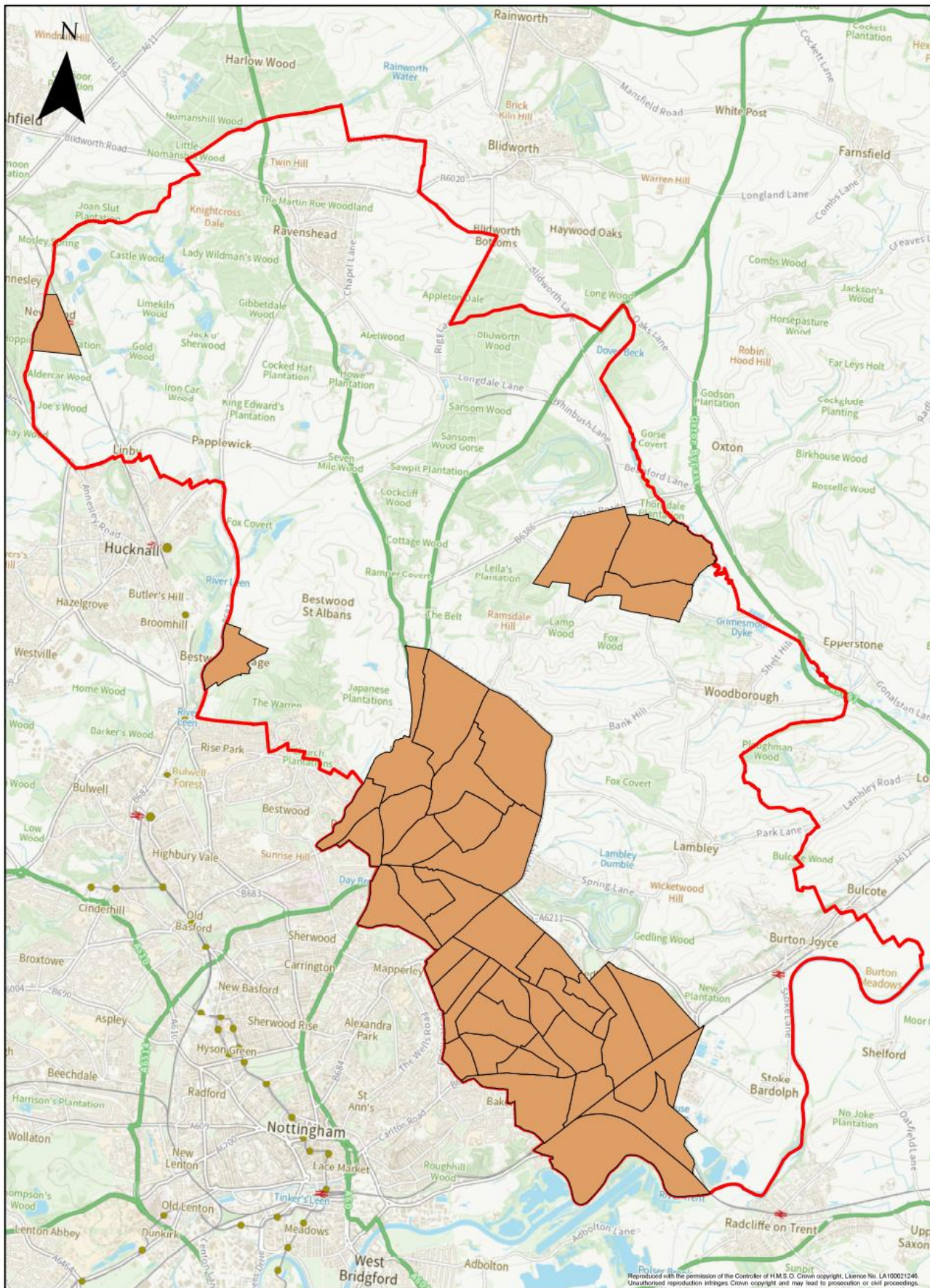
On behalf of the Chief Financial Officer

Approved by:

Date:

On behalf of the Monitoring Officer

Appendix A – Map of current Smoke Control Orders



Appendix B – Draft Smoke Control Order

[PROPOSED SMOKE CONTROL ORDER]



**Clean Air Act 1993
(as amended) Section 18**

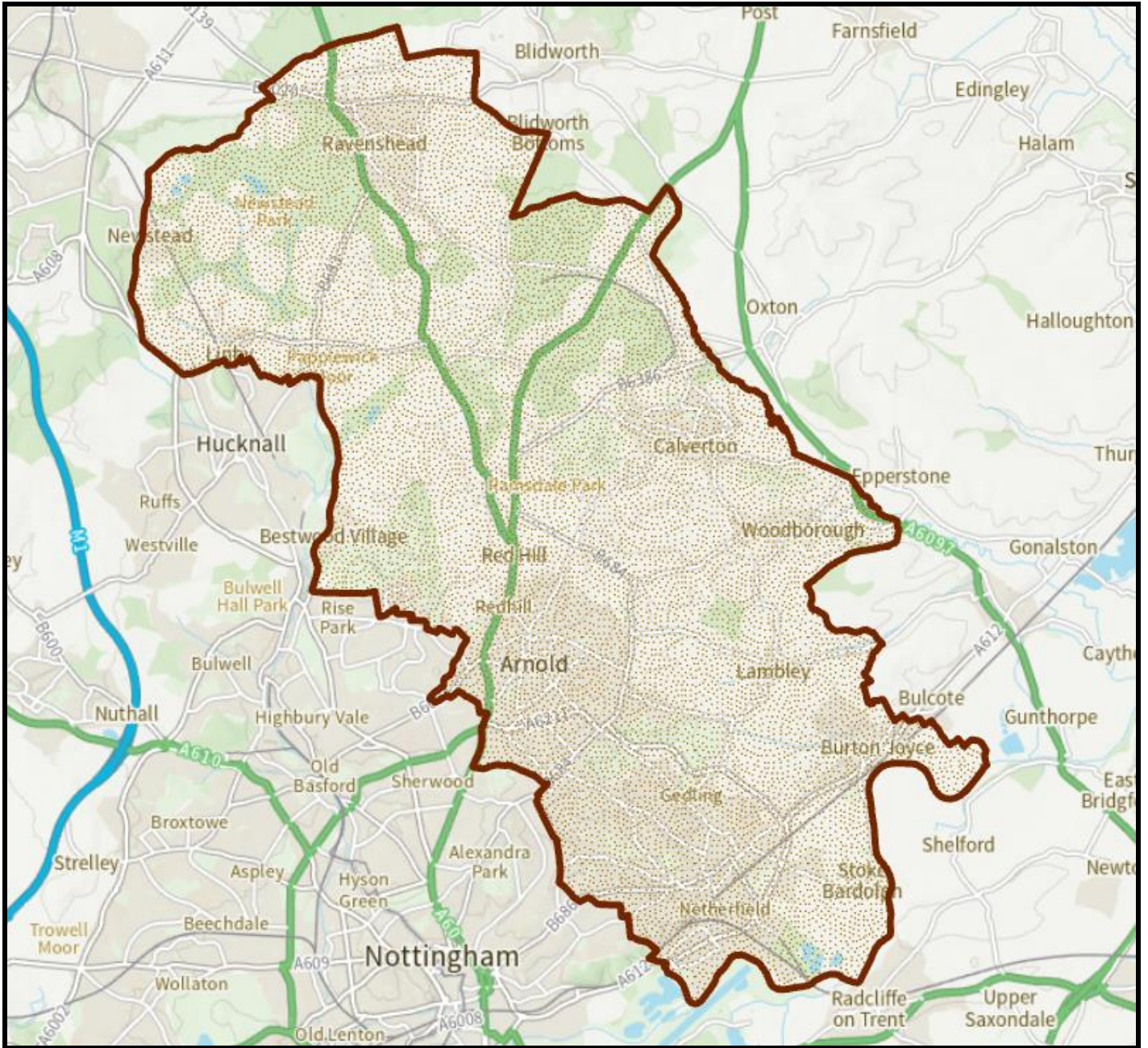
THE GEDLING BOROUGH COUNCIL SMOKE CONTROL ORDER 2023

Gedling Borough Council ("the Council") in exercise of its powers under section 18 of the Clean Air Act 1993 (as amended), hereby make the following Order:

1. This Order may be cited as The Gedling Borough Council Smoke Control Order 2023 ("the Order"). This Order will come into operation not less than six months from the date this Order is made. All existing Smoke Control Orders are hereby revoked from the date that this Order comes into operation.
2. The Council declares the whole of the area within its boundary to be a Smoke Control Area as shown on the attached Plan. The Plan has been prepared and sealed with the common seal of the Council and a copy has been deposited at the offices of the Council at: Civic Centre, Arnot Hill Park, Arnold, Nottinghamshire, NG5 6LU
3. In the whole of the Smoke Control Area created by this Order (that is, all land within the borough boundary), the operation of section 19A of the Clean Air Act 1993 (Penalty for emission of smoke in smoke control area in England) shall be applicable to all buildings.
4. Other than exemptions made by the Secretary of State under section 21 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 of the Clean Air Act 1993 (Penalty for emission of smoke in smoke control area in England).

THE COMMON SEAL of GEDLING)
BOROUGH COUNCIL)
was hereunto affixed on this day)
of 2023 in the presence of:-)

MAP OF THE PROPOSED GEDLING BOROUGH COUNCIL
SMOKE CONTROL AREA 2023



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MAP



Area to be included in the Proposed Gedling Borough Smoke Control Area 2023