

8 November 2022

The following summary reports relate to those minutes of the Cabinet which contain a recommendation to the Council.

| Meeting Date | Subject |
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| 28 September 2022 | Proposal to Declare the Whole of Sandwell as a Smoke Control Area |



Report to Cabinet

28 September 2022

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| Subject: | Proposal to Declare the Whole of Sandwell as a Smoke Control Area |
| Cabinet Members: | Councillor Suzanne Hartwell Cabinet Member for Adults, Social Care and Health |
| Director: | Public Health, Lisa McNally |
| Key Decision: | Yes. The decision affects communities living or working in an area comprising two or more wards or electoral divisions in Sandwell |
| Contact Officer: | Senior Environmental Health Officer (Air Quality) Elizabeth Stephens Elizabeth_stephens@sandwell.gov.uk |

1. Recommendations

- 1.1 That the results of the public consultation on the Proposal to Declare a boroughwide Smoke Control Area as detailed in **Appendix 1** be received.
- 1.2 That the Council be recommended to approve Sandwell MBC 'Declaring' the whole Borough of Sandwell as a Smoke Control Area (SCA) under the Clean Air Act 1993 and replace the existing 51 Smoke Control Areas and ensure that all properties in the Borough are subject to the same legal requirements in relation to the prevention of smoke from building chimneys.
- 1.3 That subject to 1.2 above, the Director of Public Health be authorised to revoke the existing 51 Smoke Control Orders and making a single Borough-wide Smoke Control Order, with the Smoke Control Area

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coming into operation on the date specified in the Order which will not be earlier than six months from the date of confirmation.

2 Reasons for Recommendations

Legal Duty

- 2.1 As a Council we have a legal duty to assess local air quality and where necessary take appropriate action to protect the health of those living and working in the Borough. The declaration of a borough-wide Smoke Control Area is just one of a range of measures that Sandwell Council can implement to help reduce the exposure of all its communities to the harmful smoke emissions created by domestic solid fuel burning.
- 2.2 The process of creating a borough-wide Smoke Control Area is not a quick process and it can typically take several years to bring into full effect. This is due to the legal processes that must be adhered to, as well as the robust level of scrutiny required to ensure a fair and transparent assessment is undertaken. It has been particularly important to ensure that residents and businesses within Sandwell are adequately informed about the proposal and that they understand the reasons for it and its implications. We have a duty to ensure that all our stakeholders have been given sufficient time to raise any objections. The full timetable for implementing the borough-wide SCA proposal is provided in **Appendix 3**. The first ten steps on this timetable have now been completed, the next step, step No.11, requires Cabinet approval to issue the Order to 'Declare a Borough-wide Smoke Control Area'. If agreed by Cabinet and then full Council, the Order can be made and then be formally advertised for six weeks. If no formal objections are received, the borough-wide Smoke Control Area would come into effect no sooner than 6 months after the date on which the Order is signed.
- 2.3 A 6-week public consultation on the 'Intention to Declare a Borough-wide Smoke Control Area' has now been completed as requested by full Council in December 2021. The initial report presented to Council in December 2021 outlining the SCA proposal and supporting evidence



is available on Sandwell Council's Modern.Gov Website or by clicking [here](#).

2.4 No formal objections have been received to the proposal following both formal advertisement and the public consultation in May and June 2022. A discussion of the results of the public consultation are provided in section 4 of this report and the full results of the report are provided in **Appendix 1**.

2.5 The results of this public consultation have been subject to scrutiny by the Director of Public Health and the Cabinet Member for Adults Social Care and Health who maintain their support for this proposal.

Protecting Public Health

2.6 Sandwell currently has 51 separate Smoke Control Areas, by extending the SCA to cover the whole of the borough all neighbourhoods will be protected against harmful smoke emissions, at present homes and businesses in approximately 4/5ths of the borough can still legally burn unauthorised fuels (i.e. wood and coal) in non-exempt appliances and on open fireplaces. A borough-wide SCA would address this inequality.

2.7 Domestic burning of wood and coal is the main source of man-made PM_{2.5} in urban areas like Sandwell. Contrary to popular belief, road transport makes up about 13%.

2.8 PM_{2.5} has a significant impact on human health, it can cause coughs, dizziness, inflamed airways and shortness of breath. It can increase 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.

2.9 Scientific research clearly demonstrates that burning even untreated, bare wood produces smoke that contains a harmful mix of gases and fine particulate matter (PM_{2.5}). The dangerous gases produced during



domestic burning include benzene, formaldehyde, acrolein and polycyclic aromatic hydrocarbons (PAHs). If we continue to allow people to burn 'whatever they want' we are condoning the exposure of our population to a harmful cocktail of chemicals.





- 2.10 The social and economic benefits of implementing a boroughwide smoke control area are far reaching and its potential to have a positive impact on public health clearly outweighs any initial set up costs or its future enforcement.
- 2.11 Although wood burning stoves in the UK only account for 6% of energy consumption they make up to 40% of the UK's social-health related costs from home heating. Social-health related social costs are calculated using direct (health care) expenditures (e.g. hospital admissions, loss of working days) and indirect health impacts and accompanied welfare loss (e.g. managing diseases such as COPD, increased mortality risk and reduced life expectancy due to air pollution).
- 2.12 The average yearly social-health related cost of heating a household using a wood burning stove in the UK is £670.00, compared with £26.50 for non-condensing gas boiler and £17.50 for a condensing gas boiler. Whilst the average social-health related cost of driving a diesel car for one year is £185.85 compared with £670.00 for one wood burning stove. (European Public Health Alliance (2022)).
- 2.13 According to the 2021 census data there are now 130,200 households in Sandwell, and government research estimates that 8% of households in the UK have wood burning stoves. Based on these figures the yearly social-health related costs in Sandwell from wood burning stoves could amount to circa £6,978,720.00. Requiring all households in Sandwell to either use a Defra exempt stove and/or authorised fuels could significantly reduce this health cost burden.



- 2.14 The implementation of a borough-wide SCAs is not an uncommon or unusual tool to use to protect air quality, in the West Midlands, for example two of our neighbouring authorities, Birmingham and Dudley already have them in place.
- 2.15 At a time of steeply rising fuel prices the likelihood of residents resorting to wood and coal burning as alternatives to gas and electricity for home heating is likely to rise. Although unauthorised fuels and non-exempt stoves may offer financial savings for at a time of high inflation and rising energy costs, their use comes with a huge social-health related cost. As a council we should not be knowingly allowing residents to sacrifice their own health and the health of others around them, just because unauthorised fuels are cheaper. As a Council we need to assist residents who are struggling with the cost of heating and will face fuel poverty this winter by helping them to find clean and safe ways to heat their homes instead. This includes providing information and advice not only where they can get practical and financial help, but also energy efficiency measures that are likely to provide year on year savings. Supporting those on a low income and in receipt of government benefits is particularly important, for example many residents will be unaware that they are entitled to help towards home insulation and boiler replacement. Examples of further information on financial support and information on energy saving is provided in **Appendix 5**.
- 2.16 By creating a borough-wide SCA we will continue to raise general awareness about the risks to health from domestic burning and particularly the risks to those breathing in smoke from unauthorised fuels including wood and coal. This messaging is essential if we are to prevent this adding to the burden of health issues being experienced in Sandwell.



3 How Does This Deliver Objectives of The Corporate Plan?

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|  | <p>Best start in life for children and young people Young children face a greater risk to their health from ultrafine particulate emissions (PM_{2.5}) which is strongly associated with domestic burning and is the largest source of ultrafine particulate matter in urban areas. Exposure to PM_{2.5} is shown to have both short and long-term impacts, including respiratory illnesses and impaired lung and cognitive development in children.</p> |
|  | <p>People live well and age well Air pollution is a key threat to the health of our population and a driver of health inequalities. Addressing air pollution will reduce health inequalities and increase both the perceived and actual position of Sandwell as a cleaner and safer place to live.</p> |
|  | <p>Strong resilient communities Addressing air pollution and in particular PM_{2.5} will contribute towards improving the overall health and resilience of our communities.</p> |
|  | <p>Quality homes in thriving neighbourhoods By providing a SCA that is Borough wide, all neighbourhoods in Sandwell would be afforded the same level of protection from harmful emissions that are created by the burning of solid fuels in domestic properties and businesses.</p> |

4 Context and key issues

History of Smoke Control Areas in Sandwell

4.1 The 1956 Clean Air Act (CAA) originated out of the London smogs in the 1950s. In December 1952 a particularly severe London smog that lasted five days, caused an estimated 12,000 additional deaths and finally led to the creation of the 1956 Clean Air Act. This allowed for



the creation of Smoke Control Areas, initially to reduce smoke from coal burning.

- 4.2 The 1993 Clean Air Act consolidated two previous CAAs and allowed for Smoke Control Areas to also be used to ban emissions from smoke from domestic premises. When the Metropolitan Borough of Sandwell was formed in April 1974 it inherited 51 separate Smoke Control Areas from the previous county authorities of Warley and West Bromwich.
- 4.3 The Clean Air Act 1993 enables local authorities to declare the whole or parts of the district as a Smoke Control Area (SCA) through a Smoke Control Order. Where an SCA exists, residents will not be able to emit smoke from a chimney and are required to use authorised smokeless fuels or 'exempt appliances'. A fine of up to £350.00 can be issued for breaking the rules. The use of an SCA is a key control for Sandwell in minimising harmful smoke emissions from residential and small-scale combustion plants.
- 4.4 A new single Smoke Control Area would ensure that all properties in the borough are subject to the same legal requirements in relation to smoke control under the Clean Air Act 1993.

Relevance of Declaring the Whole of Sandwell a Smoke Control Area in 2022

- 4.5 In recent decades the main air pollutant of concern in Sandwell has been nitrogen dioxide (NO₂) which is closely correlated with road transport. In 2005 Sandwell was declared an Air Quality Management Area due to exceedances of NO₂ across the Borough. Emissions from NO₂ have significantly decreased due to improvements in vehicle technology as well as decreased industrial emissions, but now there is now growing concern about the levels of PM_{2.5} in Sandwell and the associated health impacts.



- 4.6 Estimates of Particulate Matter (PM_{2.5}) at three monitoring sites in Sandwell in 2019 demonstrated levels above the World Health Organisation guidelines of 10µg/m³. With no known safe level for PM_{2.5} the short and long-term impacts on health are significant. There is strong evidence that air pollution causes the development of coronary heart disease, stroke, dementia, respiratory disease and lung cancer, and it both causes and exacerbates asthma.
- 4.7 The government revised its figures for the sources of PM_{2.5} in 2020. Although some PM_{2.5} (approximately 13%) comes from transport a substantial proportion (approximately 25%) is still from domestic burning.
- 4.8 The contribution of PM_{2.5} from small combustion sources such as domestic stoves and fireplaces is growing. This is of concern because when there is a concentration of small combustion emissions from burning activities in an urban area, these emissions have a more significant population impact than burning in sparsely populated rural areas.

Public Consultation and Advertising Sandwell Council's Intention to Declare a Borough-wide Smoke Control Area

- 4.9 Although not required in law, a 'non-statutory' consultation was completed with residents and businesses in July and August 2021. The majority of respondents to this survey were in favour of a borough-wide Smoke Control Area.



4.10 The decision to undertake a public consultation went beyond the statutory requirement of a 6-week formal advertising period in a local newspaper and in the London Gazette. This decision was made to increase public awareness of the health issues related to the burning of smoky fuels and to ensure that residents and businesses were given the opportunity to have their say about the proposal. This also enabled officers to identify any significant issues of concern for further consideration.

Online Consultation Responses

4.11 60 responses were received in total during the 6-week consultation period. Consultees were asked 9 questions and a report of the results from the public consultation is provided in **Appendix 1**.

4.12 The final question allowed for respondents to comment on the proposal with unlimited text, for which 41 comments were received. Officers have spent time reviewing, grouping and then responding to these comments. The Council response to the comments received via the on-line public consultation and from Facebook and Twitter and emails sent to the Pollution Control Team can be found in the Public Consultation Results and Analysis Report in **Appendix 1**.

Headline Statistics for 6-Week Public Consultation

4.13 The responses to the questions asked in the Smoke Control Area public consultation are provided in full in the Consultation Report, but can be summarised as follows:

- **85%** of respondents agreed or strongly agreed that improving air quality should be a key priority for Sandwell. **9%** disagreed or strongly disagreed and **4%** neither agreed or disagreed.
- **80%** of respondents knew that breathing in smoke from wood and coal burning can result in cancer, stroke, heart disease, asthma, COPD, decrease children's lung development and cause pregnancy



complications. Whilst **10%** did not know and a further **10%** were not sure.

- **0%** of respondents lived on a canal boat or other inland water vessel moored in Sandwell.
- **13%** of respondents (8 people) use a wood/coal burning stove, an open fireplace or other combustion appliance with a chimney inside their home.
- Of the 8 respondents using a solid fuel burning stove 6 did not know if their stove was on Defra's list of exempt appliances.
- Respondents were asked why they chose to use a solid fuel stove or open fire place and were given five options, of which they could pick as many as they liked. From the 8 respondents, 5 stated it was to save money, 3 to supplement other heating and 2 to create a nice atmosphere. None of the respondents stated that it was because it was their only source of heating.
- **98%** of the respondents stated they did not own or manage a business in Sandwell that used a biomass boiler or wood/coal burning stove or any other appliance with a chimney, whilst **2%** did not know.
- **67%** of respondents thought that all of Sandwell should be protected by a Smoke Control Order. Whilst **23%** were against it and **10%** did not know.
- **53%** of respondents gave a Sandwell home or business address postcode. Out of the six Sandwell towns, the greatest response was from Oldbury with **25%**, followed by West Bromwich with **22%**, then Rowley Regis and Tipton with **16%**, Smethwick was **12%** and Wednesbury with **9%**.



Comments received in response to the Public Consultation

4.14 Many comments were supportive of the proposal and agreed with the need for a borough-wide smoke control area and the need to stop people from burning inappropriate materials so as to prevent future decline in air quality and recognised the link with ill health. Examples of some of the comments made include:

'Air pollution is a health emergency in this borough',

'Wood burning stoves are a real problem around here'

'We do not want to return to those days of smoke polluted air and smog which have been largely eradicated in the last few decades'.

4.15 In terms of those who were not supportive of the Council's proposal, the comments fell into a variety of categories, which have been summarised below:

- Wood burning is fine as we have always done it to keep warm.
- The proposal is a waste of money as it is not a significant issue and there are other issues we should be focussing on.
- Traffic is a bigger problem for air pollution than wood burning stoves.
- The proposal is a knee jerk reaction to the expected increase in residents using solid fuel stoves and fireplaces because of the rise in gas and electricity prices.
- Narrow boats are not significant polluters
- This proposal will result in people being forced into fuel poverty
- Commercial businesses are a more significant issue for smoke emissions.
- The proposal will increase the cost of authorised fuels

Examples of some of the comments received include:



*'Man has burned wood since the dawn of time to keep warm'.
'You're targeting households instead of taking responsibility for
improving roads and the environment'.*

*'I think there is far more air pollution from traffic within Sandwell than
from those who have wood burners. Sandwell council should put more
efforts into traffic pollution'.*

*'This is not the time to bring in this law when the cost other forms of
fuel are skyrocketing'.*

- 4.16 Some comments were outside the scope of this consultation, these included suggestions that the council should be doing more to tackle air pollution including smoke from bonfires, BBQs and firepits. Suggestions were also made that the Council should do more to reduce road traffic, including promoting and providing more active and sustainable travel options.

Responses from neighbouring local authorities

- 4.17 Several supportive email responses were received from other local authorities in the West Midlands.

*'We fully support the proposal'- **Coventry City Council***

*'Having a borough wide Smoke Control Area is more appropriate for
mainly urban local authorities and Sandwell fit into that category. It will
make for consistency across the district and help in communication
with citizens and be more relevant given both the increasing
prevalence of wood fired burners and the changes to enforcement of
emissions within Smoke Control Areas brought about by the
Environment Act 2021. Furthermore, it will align with Birmingham City
Council's boroughwide Smoke Control Order, given that we have a
common border. **Birmingham City Council***



‘As we share most of our Eastern boundary with Sandwell, I can only see that it will give rise to greater consistency and improved control over emissions’.

Dudley Metropolitan Borough Council

Legal Information and Timescales

- 4.18 The Council has already advertised its ‘Intention to Declare a borough-wide Smoke Control Area’ the remaining legal step now is for the issuing of a Smoke Control Order which will ‘Declare a borough-wide Smoke Control Area’.
- 4.19 Further details of the legislative process and proposed timetable for implementing a Borough-wide Smoke Control Order are provided in **Appendix 3**.
- 4.20 This borough-wide Smoke Control Order will revoke the existing 51 Smoke Control Orders and the whole of the Metropolitan Borough will be declared Smoke Control Area, with no exemptions.
- 4.21 A period of 6 weeks from the last date of advertising the Order is allowed for any formal objections to be made. It is assumed that all properties currently not in existing Smoke Control Areas can comply with the provisions (i.e. capable of being heated without the use of unauthorised solid fuels or non-exempted appliances).
- 4.22 Section 24 of the Clean Air Act 1993 gives local authorities the power to require adaptation of fireplaces in private dwellings to ensure compliance with emissions as required under Section 20. This includes the payment of a grant if necessary to assist with the adaptation. The likelihood of any fireplace adaptation being required is not considered to be a significant one. Those with non-compliant stoves and open fireplaces should not require any adaptation other than to switch to burning authorised fuel and using ‘smokeless’ firelighters, i.e. gas poker or smokeless BBQ lighters. In very old properties original fireplace grates are sometimes required to be



changed for thicker fire-bars which can withstand higher heat intensities from authorised fuels. However, unless the fireplace is the only form of heating for the home the local authority would not be required to assist in paying for this adaptation.

5 Alternative Options

Continue with Existing Smoke Control Areas

- 5.1 To continue with Sandwell's 51 Smoke Control Orders means that differing legal requirements would remain for exempted properties compared to other parts of the borough. This is inequitable and will result in mixed messages and potential greater levels of non-compliance by those in existing smoke control areas who consider themselves unfairly penalised. There is not envisaged to be any legitimate reason for objection.
- 5.2 Non-exempt solid fuel burning stoves and open fire places have a negative impact on internal and external air-quality and have a significant burden in terms of health costs, both short and long term. If domestic burning in properties across Sandwell continues unchecked and unregulated the impact could negate the technological gains made through cleaner vehicle technology, home energy efficiency and controls of industrial processes.
- 5.3 It is envisaged that the use of solid fuel burning stoves and open fireplaces will increase with rising energy prices. At a time when households are facing financial hardship, it is easy to accept wood and coal burning as the cheap solution. Air pollution is already impacting negatively on our economy and health, but if we allow the increased burning of unauthorised fuels and appliances it will come with a high price tag in terms of health care both now and in the future.



6 Implications

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| <p>Resources:</p> | <p>There remain some associated costs in Declaring a Smoke Control Area, this would include officer time to complete the work required to make a Smoke Control Order and the cost of placing public notices in the London Gazette (approx. £70) and twice in local newspapers (approximately £1,700 + VAT).</p> <p>There is potential for residents to claim financial assistance for fireplace or stove adaptations. Since the first surveys in 2021, no claims have been raised. It is not expected that there will be many if any legitimate claims, but we will not know this for certain until the remaining 6-week period of formal advertising has been completed. Any claim would have to be considered on its merits, but such claims are not expected to result in excessive cost. In exceptional circumstances individual exemptions could be allowed but given the risks to health from burning smoky fuels we would look to avoid this where possible.</p> <p>Costs are not expected to be excessive when weighed against the potential benefits to health. Funding for these costs can be found from the existing Public Health budget.</p> |
| <p>Legal and Governance:</p> | <p>This initiative will contribute to Sandwell's Air Quality Action Plan, Sandwell's Climate Change Strategy and the Annual Status Report on Air Quality in Sandwell.</p> <p>The initiative will be undertaken by Council Air Pollution officers with the support, advice and guidance of Sandwell's legal team.</p> |
| <p>Risk:</p> | <p>The Corporate Risk Management Strategy (CRMS) will continue to be complied with throughout, in identifying and assessing the significant risks associated with this strategic proposal. This includes (but is not limited to) political, legislation, financial, environmental and reputation risks. A project risk</p> |



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| | <p>register was compiled in 2021 and has been reviewed and updated. The risk register is monitored by the Pollution Control Team. Based on the information provided it is the officers' opinion that for the risks that have been identified so far and the arrangements in place are adequate to manage and mitigate these effectively.</p> <p>A risk assessment has been undertaken and no "red" risks were reported.</p> <p>This report does not relate to the collection of personal information and therefore a privacy impact assessment is not required. Any person who wishes to object the declaration or to make a claim for fireplace/stove adaptation will be required to e-mail or write to the Pollution Control Team at Sandwell Council or pollution_control@sandwell.gov.uk. Data will be handled and stored in accordance with the departments existing GDPR controls.</p> |
| <p>Equality:</p> | <p>Householders who use solid fuel as their only means of heating may find the switch to authorised fuels slightly more expensive, increasing the risk of putting them into fuel poverty (i.e. spending more than 10% of their income on heating their homes). However, authorised fuels do burn more efficiently. There is also financial assistance and grants available for those on low-incomes to help with home insulation and updating heating provision. Households in this position will be signposted to sources of help through a variety of communication channels, including press, social media and Sandwell Council's website.</p> <p>Conversely the existing patchwork of Smoke Control Areas does not provide equality in protecting residents from harmful pollutants generated by solid fuel burning and open fires, and its contribution to PM_{2.5} which is now linked with both short and long-term health impacts.</p> |



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| Health and Wellbeing: | <p>Air pollution particularly affects the most vulnerable in society: children and older people, and those with heart and lung conditions and it is associated with a plethora of adverse health impacts. It is recognised as a contributing factor in the onset of heart disease and cancer, plus recent research has suggested links between air quality and stunted lung development in children, exacerbation of degenerative sight loss in adults and dementia in the elderly.</p> |
| Social Value | <p>Proactive measures now to improve air quality will have long-term positive impact by reducing the health-related social costs and subsequent burden on the NHS to treat and care for those who are exposed both short and long-term to harmful smoke emissions. This proposal reduces health inequalities and is designed to support longer and healthier lives.</p> |

7. Appendices

Appendix 1 Results of Public Consultation on Proposal to Declare a Borough-wide Smoke Control Area.



Appendix 2 Draft copy of the borough-wide Smoke Control Order

Appendix 3 Timetable for Implementation of the Proposed Borough-wide Smoke Control Area in Sandwell.

Appendix 4 Details of the legislative process and a summary of the steps for revocation of the existing 51 Smoke control Areas and implementation of a borough-wide Smoke Control Order across Sandwell.



Appendix 5 Smoke Control Area Risk Register

Appendix 6 Smoke Control Area Equality Impact Assessment

8. Background Papers

The health related social costs of air pollution due to residential heating and cooking - European Public Health Alliance (2022) <https://cedelft.eu/publications/health-related-social-costs-of-air-pollution-due-to-residential-heating-and-cooking/>

The Clean Air Act 1993 – Part III – Smoke Control Areas
<https://www.legislation.gov.uk/ukpga/1993/11/part/III>

Black Country Ultra Low Emission Vehicle Strategy:
https://consultation.wolverhampton.gov.uk/bct/bct-ulev-strategy/user_uploads/black-country-ulev-strategy-2020.pdf

Sandwell - Smoke Control Areas Summary and Map
<https://data.gov.uk/dataset/2e59be11-a9db-4b9e-8cbb-8e2f2567c588/sandwell-mbc-smoke-control-area>

Emissions of air Pollutants in the UK – Particulate Matter (PM10 and PM2.5)
<https://www.gov.uk/government/statistics/emissions-of-air-pollutants/emissions-of-air-pollutants-in-the-uk-particulate-matter-pm10-and-pm25>

Airborne particles from wood burning in UK Cities – Environmental Research Group – King’s College London https://uk-air.defra.gov.uk/library/reports?report_id=953

Sandwell Annual Status Report for Air Quality 2020
https://www.sandwell.gov.uk/info/200274/pollution/485/air_quality

Burning in UK Homes and Gardens – Research Report (Dec 2020)
<http://sciencesearch.defra.go>



