

NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

EXECUTIVE MANAGEMENT TEAM'S REPORT TO THE
CABINET

Date 6TH FEBRUARY 2019

HEADING Air Quality Ministerial Direction

Submitted by: Head of Environmental Health

Portfolio: Operational

Wards Affected: All

Purpose of the Report

To seek Cabinets support and to update and advise of further works required by DEFRA in respect of Air Quality works on the A53 (Basford Bank area).

Recommendations

That Cabinet note the Ministerial Directions, the actions and statutory deadlines associated with them, and the arrangements proposed to involve Members in the development and assessment of potential options and the production of a preferred policy.

Reasons

DEFRA have served two further ministerial directions on the Borough Council under the provisions of the Environment Act 1995 to undertake a further feasibility study with Stoke-on-Trent City Council (SOTCC) to assess and determine further actions with regard to reducing nitrogen dioxide levels in the earliest possible time and to implement a bus engine retrofit scheme to busses travelling on the A53.

To advise of the process for evaluating and assessing potential measures to improve air quality under the Direction, and the sign-off required of a preferred policy by Cabinet by 31 October 2019.

To make the Cabinet aware of the financial support being provided by Government for the investigation work and their further commitment to support the implementation of the preferred policy subject to compliance with HM Treasury business case rules.

1. Background

- 1.1 In July 2017, Government produced a UK plan for Air Quality and required 28 Local Authorities (dubbed the first and second wave LAs) with the most severe exceedances for nitrogen dioxide (NO₂) pollutants to develop local plans to bring forward compliance with limit values. The benchmark to assess whether local plans would achieve this objective was compliance before 2021, since national modelling predicted that a charging Clean Air Zone in these areas would produce compliance in that timeframe.
- 1.2 In March 2018, thirty three 'third wave authorities', Newcastle-under-Lyme and Stoke amongst them, also became subject to Government requirements as a result of a legal

challenge that not enough was being done to achieve UK compliance with air quality objectives 'in the shortest time possible'.

- 1.3 The third wave authorities were not required to produce local plans since national modelling suggested that their areas would be compliant by 2021. Instead they were asked to identify additional actions which could be taken to bring forward compliance for exceedances in particular areas. For Stoke and Newcastle the identified area was the A53 from Sandy Lane to where it crosses the A500 and travels alongside Festival Park.
- 1.4 The feasibility study prepared identified that bus retro fit was the only potentially cost effective measure that could have an impact before 2021.
- 1.5 The study report also highlighted that the road link in question and others, including some subject to investigation by Highways England, are likely to have persistent, long term exceedances of the NO₂ limit beyond 2021. As a result, Government has concluded that further work and a local plan identifying preferred options compared to the likely effects of a Clean Air Zone is required from the two Councils by 31 October 2019.
- 1.6 In October 2018, Ministers Coffey and Norman for the Department for Environment, Food and Rural Affairs (DEFRA) and Department for Transport (DOT) respectively, served two ministerial directions on the Council; these were served under the provisions of The Environment Act 1995 (Feasibility study for nitrogen dioxide compliance) (No 2) and (Implementation of measures for nitrogen dioxide compliance) Air Quality Direction 2018. This work is being co-ordinated by the Joint Air Quality Unit (JAQU) which is part of DEFRA.
- 1.7 The Ministerial directions formally mandate several local authorities (including Newcastle-under-Lyme Borough Council) to undertake further work with the main objective being to explore options for reducing levels of nitrogen dioxide in the air.
- 1.8 The two directions require:

NULBC and STOCC to jointly further investigate EU exceedances of nitrogen dioxide (NO₂) on roads within the Borough and identify measures that could bring forward compliance with NO₂ limits as soon as possible **or** review the implementation of a chargeable clean air zone.

And

NULBC to implement a bus engine retrofit programme to busses that operate on the A53 to be implemented as soon as possible in order to bring forward compliance of NO₂ levels.

2. Local Air Quality Development Plan

- 2.1 The Ministerial Direction obligates the Council to undertake a joint appraisal and feasibility study with Stoke-on-Trent City Council to propose options for reducing pollution or consider the feasibility of a Chargeable Clean Air Zone. You will have heard of recent examples where UK cities are proposing to introduce Chargeable Clean Air Zones, such as Leeds and Birmingham; these were considered in the first wave of Authorities. Members should be aware that SOTCC and NULBC are third wave Authorities.
- 2.2 Your officers attended a meeting with JAQU on 30th October 2018, where the details of the required work were outlined.

- 2.3 The primary critical success factor is to bring about compliance with NO₂ limits in the shortest possible time.
- 2.4 The starting assumption is that the benchmark option (against which other options will need to be measured) will be a charging CAZ (Clean Air Zone) of a high enough classification to bring about compliance in the shortest possible time.
- 2.5 The scope of the investigation and proposals for action required is to be wider than the initial consideration of the A53, and must address other areas of the City and Borough currently experiencing exceedance of the 40ug/m³ limit for NO₂. Appendix A details the results of NO₂ monitoring conducted in NULBC and SOTCC in 2017 to highlight these areas. The map shows that exceedances range from just on the limit to approaching 55ug/m³ at a number of major traffic junctions. In addition the area under consideration also needs to include any locally identified exceedances (this includes any other monitored exceedances throughout the Borough and in the Air Quality Management Areas) and any 'displacement routes' that may result from the measures.
- 2.6 It is currently considered by officers that the scope of the study area proposed at this time is the whole of the City and most of the urban area of the Borough, since that matches the area encompassed by the North Staffordshire Multi Modal Transport model used by transport officers at the City and County Council. As the study develops the area may be refined inwards to reflect study findings.
- 2.7 The work to be undertaken is more in-depth but of a similar process to that conducted for the A53 study. It will involve:
- a long list of possible options
 - analysis and modelling to determine the potential effect of each option
 - reduction to a short list of options with an analysis of cost, economic impact, health impact, and equality impact
- 2.8 The benchmark against which the effect of potential options is judged remains comparison with that of a Clean Air Zone (CAZ) which must also be modelled by the local study. While CAZs without a charging scheme are possible the expectation from JAQU is that, in the absence of effective alternative options, a CAZ will be required which includes an element of charging some road users.
- 2.9 A number of detailed investigations and a significant amount of local traffic and air quality modelling are required to comply with the current Direction, based on data which is not currently available, together with a significant amount of strategic and economic consideration. As with the first Direction, external assistance from specialists in air quality and traffic modelling will be required, and the process of procuring these resources is currently being investigated.
- 2.10 The timescales imposed by the Ministerial Direction are very challenging and the Council is legally obliged to develop a preferred policy and cost-benefit assessed options for action by the end of October 2019 or sooner.

Governance arrangements:

- 2.11 With the Direction requiring a joint investigation and jointly supported preferred policy report a governance structure is required which accommodates officer and member arrangements at both the City and Borough Councils and also involves the County Council as the highways authority for the Borough.

- 2.12 A joint officer working group was established to complete the initial proposal plan required by JAQU by 30/11/18. This group will continue, supported by external specialists, and undertake the investigation and evidence gathering against a long list of possible options. As the long list is refined to a short list, JAQU will require a number of assurance reports and undertake reviews against them to confirm that the methodology for the assessment and refining work being followed confirms to the Treasury Green Book model.
- 2.13 Regular progress reports and briefings are intended for Members and Portfolio Holders arising from a Joint Strategic Board led by Head of Environmental Health on behalf of the Council. An in-depth analysis of the final short list of options will be presented as part of the sign-off process for the business case report to be submitted to satisfy the Direction in late summer 2019.
- 2.14 To complete the actions required by the Direction a Final Business Case of the preferred action or actions from the assessment of shortlisted options must be jointly agreed and signed off by each Council's Cabinet. If no cost effective alternative measures to a Clean Air Zone have been identified and evidenced then a chargeable CAZ must be the agreed action and the business case submitted will be 'outline' in nature since a CAZ requires extensive public and partner consultation before consideration by Government.
- 2.15 An Outline or Final Business case must be submitted by 31/10/19.

3. Bus Retrofit

- 3.1 The ministerial direction in respect of bus retrofitting requires the Local Authority to implement the retrofitting works to upgrade the busses that operate on the A53 from euro 3 engines so they operate at euro 6 standards. This work is to be completed as soon as possible and by the end of 2019 at the latest, in order to bring forward compliance in NO₂ levels to 2021 to 2025.
- 3.2 It has since been established that this equates to 25 busses operated by First PMT, on bus routes 3, 4 and 4a that travel on the A53.
- 3.3 This requires NULBC (this direction has not been served on SOTCC) to undertake additional NO₂ monitoring along this route, to implement a bus retrofit scheme, to continue to monitor NO₂ following the works and provide reports to JAQU on air quality and traffic changes.
- 3.4 Again challenging deadlines have been proposed for the submission of project plans and reports relating to the implementation and updating of progress.
- 3.5 There are a number of conditions that the Borough Council and the bus company are required to meet in respect of this work, including a requirement for the busses to remain in service for 5 years or 150,000 miles or be replaced with a euro 6 engine bus.

4 Recommendation

- 4.1 That Cabinet note the Ministerial Directions, the actions and statutory deadlines associated with them, and the arrangements proposed to involve Members in the development and assessment of potential options and the production of a preferred policy.

5 Outcomes Linked to Sustainable Community Strategy and Corporate Priorities

- 5.1 This work links to the following corporate priorities:
- Local Services that Work for Local People – There is a need to ensure that the transport systems are maintained and work for local people.
 - Healthy, Active and Safe Borough – Air quality impacts are significant, they account for reduced life expectancy and adverse impacts on health and the economy, therefore improving air quality for our residents will not only help save lives but will also improve life expectancy.
 - A Town Centre for All – The town centres are with designated air quality management areas, this work will assist in delivering wider improvements in air quality across the town centre.

6 Legal and Statutory Implications

- 6.1 Environment Act 1995 (Feasibility Study for Nitrogen Dioxide Compliance) (No.2) Air Quality Direction 2018. This requires the authority to undertake a feasibility study in accordance with HM Treasury's Green Book approach, to identify the option(s) which will deliver compliance with legal limits for nitrogen dioxide in the shortest time possible.
- 6.1 Environment Act 1995 (Implementation of measures for nitrogen dioxide compliance) Air Quality Direction 2018. This requires the authority to implement the bus retrofit scheme.
- 6.2 Failure to comply with the Direction may result in Judicial Review proceedings being brought against the Council. Any such proceedings may result in adverse costs awards being made against the Council.

7 Equality Impact Assessment

- 7.1 The development of the plan includes a requirement to produce an assessment of the strategic case, economic case, commercial case, financial case and management case, therefore all aspects will be reviewed as part of the proposed work.

8 Financial and Resource Implications

- 8.1 DEFRA have confirmed a commitment to cover the costs of the further study via grant. So far a grant commitment of £500,000 has been provided for the completion of the Local Plan study.
- 8.2 The bus retrofit will also be funded by DEFRA; they have initially detailed that this should be for no more than £425,000 (the indicative figure provided in initial feasibility study).
- 8.3 As Government propose to provide funding support for the preferred options for action, the final preferred policy report to be submitted to comply with the Direction is required to follow HM Treasury's 'Green Book' process of preparing and evidencing a series of analytical, strategic and economic business cases.
- 8.4 It is considered that the delivery (including project co-ordination and management) of these two projects cannot be met from existing resources, the reasons being twofold; firstly that the technical nature and extent of the work required cannot be delivered in house (air quality and traffic modelling) and will require consultants support and secondly,

this is work that had not been planned for and will require significant resource in the planning, project management, reporting and consultant support, which cannot be met from existing staff resources.

- 8.5 The Final (or Outline) Business case submitted by 31/10/19 will include preferred options for action which will be subject to assessment by Government to determine whether they will be required, and what funding will be provided to the authority to carry them out.

9 Major Risks

- 9.1 A full risk assessment has been undertaken for both these projects and is available to view on the Council's "Grace" system.

10. Sustainability and Climate Change Implications

- 10.1 Air pollution and climate change are intrinsically linked, therefore work to improve air quality will also support climate change improvements.

11. Key Decision Information

- 11.1 This item is a key decision as it affects all wards, this has been included on the forward plan.

12. Earlier Cabinet/Committee Resolutions

- 12.1 None.

13. List of Appendices

- 13.1 Appendix A – Diffusion tube monitoring results

14. Background Papers

[UK Air Quality Plan](#)

[Newcastle under Lyme and Stoke on Trent Targeted Feasibility Study](#)

First Ministerial Direction – supplement to UK AQ plan re Stoke and Newcastle.

Second Ministerial Direction 4 October 2018

Third wave local authorities - guidance 16 October 2018

Funding support for third wave authorities 31 October 2018

Appendix A

Existing Automatic & Diffusion Tube Monitoring

