

**NEWCASTLE-UNDER-LYME BOROUGH COUNCIL**

**EXECUTIVE MANAGEMENT TEAM'S REPORT TO THE**  
**CABINET**

**Date 10 JULY 2019**

**HEADING** Air Quality Ministerial Direction Update

**Submitted by:** Head of Environmental Health

**Portfolio:** Operational

**Wards Affected:** All

**Purpose of the Report**

To seek Cabinets support, to update and advise of the progress following development of the Strategic Outline Case (SOC) which will be considered as part of the Air Quality Local Plan Development works required by DEFRA in respect of Air Quality works on the A53 (Basford Bank area).

**Recommendations**

That Cabinet note the content of the report.

**Reasons**

This report is to update on progress following identification of the shortlist of measures which will be considered as part of the Air Quality Local Plan Development works.

**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 (NO<sub>2</sub>) 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 (CAZ) 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 In October 2018, Ministers Coffey and Norman for the Department for Environment, Food and Rural Affairs (DEFRA) and Department for Transport (DfT) respectively, served the ministerial direction on the Council; this was served under the provisions of The Environment Act 1995 (Feasibility study for nitrogen dioxide compliance) (No 2). This work is being co-ordinated by the Joint Air Quality Unit (JAQU) which is part of DEFRA.

- 1.4 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.
- 1.5 The directions require:
- NULBC and SOTCC to jointly further investigate EU exceedances of nitrogen dioxide (NO<sub>2</sub>) on roads within the Borough and identify measures that could bring forward compliance with NO<sub>2</sub> 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 NO<sub>2</sub> levels.
- 1.6 Cabinet have received three previous reports in respect of this matter; In February Cabinet noted that the Ministerial Direction has been served and resolved that the leader would actively engage to lobby against any charging CAZ on the A53. In March, Cabinet noted the content of the strategic outline case and approved the shortlist of measures to be further evaluated. A further report for the procurement of a contractor to assist with the delivery of this project was approved at April's Cabinet. In addition, this matter was also reported to Council on 3<sup>rd</sup> April where the previous Cabinet decisions were reported and it was noted that Cabinet firmly believes that there is a highways/transport solution to help reduce the pollution levels and that any form of parking levy of chargeable CAZ would be damaging to business and our town centre.

## **2. Air Quality Local Development Plan**

- 2.1 The Ministerial Direction obligates the Council to undertake a joint appraisal and feasibility study with SOTCC to propose options for reducing pollution or consider the feasibility of a Chargeable Clean Air Zone.
- 2.2 The primary critical success factor is to bring about compliance with NO<sub>2</sub> limits in the shortest possible time.
- 2.3 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. There are 4 classes of CAZ these are summarised below including vehicle type and euro engine classification:
- **Class A** - Includes busses (up to Euro VI), coaches (up to Euro VI), taxis and private hire vehicles (up to Euro 6 (diesel) Euro 4 (Petrol)). Ultra-low emission vehicles will never be charged for entering or moving through a CAZ.
  - **Class B** - Includes class A plus heavy goods vehicles (up to Euro VI). Ultra-low emission vehicles will never be charged for entering or moving through a CAZ.
  - **Class C** - Includes class B plus light goods vehicles including - large vans, minibuses and small van/light commercial (up to Euro 6 (diesel) Euro 4 (Petrol)). Ultra-low emission vehicles will never be charged for entering or moving through a CAZ.
  - **Class D** - Includes class C plus cars (up to Euro 6 (diesel) Euro 4 (Petrol)) and motorcycles (up to Euro 3). Ultra-low emission vehicles will never be charged for entering or moving through a CAZ.

- 2.4 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 predicted to exceed the 40ug/m<sup>3</sup> limit for NO<sub>2</sub>.
- 2.5 The scope of the project moving forwards involves three key elements:
- **Strategic Outline Case (SOC)** – presents the case for change and outlines the strategy to prepare a business case for bringing forward compliance with the annual mean objective for NO<sub>2</sub>. This provides a qualitative assessment of a longlist of measures, in order to identify a shortlist of potential measures to take forward.
  - **Outline Business Case (OBC)** – which provides further detail on the emissions and economic impacts of the shortlisted measures, in order to identify the preferred option. Once identified, the OBC will set out the implementation and procurement route for the preferred option and demonstrate the affordability of the scheme.
  - **Full Business Case (FBC)** – which sets out the implementation and procurement route in detail, and how it will be managed and the benefits realised, and if applicable, undertaking a local consultation process.
- 2.6 To complete the actions required by the Direction, a Full 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. An Outline and/or Final Business case must be submitted by 31<sup>st</sup> October 2019.

### 3. **Strategic Outline Case (SOC):**

- 3.1 The SOC details a shortlist of preferred options that have been identified to take forward to the next stages of the business case process.
- 3.2 The shortlist of measures to take forward to the modelling for the outline business case have been further developed to include the following packages of options which will be further evaluated are provided below:

- **A city centre / A53 traffic management scheme, plus Council boundary scale Low Emission Strategy;**
  - Identification of range of options including:
    - Restriction of left/right hand turns
    - Access restrictions
    - Signalling and congestion management
    - Speed reductions
    - Signage improvements
    - Measures to improve air dispersal
  - Low emission strategy options:
    - Bike and walking promotion
    - Green travel planning
    - Promotion and increased use of public transport
    - Electric/low emission vehicle charging/fuelling infrastructure
    - Communications and public engagement campaigns
- **Etruria Valley Link Road and A500 Improvements, plus Council boundary scale Low Emission Strategy.**

- The Etruria valley link road is awaiting planning permission from both the Borough and City Councils and Department for Transport formal approval.
- Investigations as to whether this option can be delivered within 2021 are being explored
- **A city centre / A53 Workplace Parking Levy, plus Council boundary scale Low Emission Strategy;**
  - Explored and reviewed other scheme available across the country.
  - Explored the legal framework for implementation
- **A Council boundary scale Workplace Parking Levy, plus Council boundary scale Low Emissions Strategy;**
  - As above
- **A city centre / A53 chargeable access restriction (Clean air zone) (Class A / B / C or D);**
  - Vehicle composition surveys
  - Area fleet profile identified

#### **4. Traffic & Stated Preference Surveys:**

- 4.1 Survey work has been undertaken to understand the local fleet composition and vehicle movements around the A53. This has been completed by placing a number of automatic number plate recognition cameras along the A53 and surrounding area.
- 4.2 The information collected has enabled data regarding the local vehicle fleet composition (% of HGV, LGV, busses, cars to be identified). The data has then been further analysed to determine the % of existing vehicles that would be compliant/non-compliant with a CAZ.
- 4.3 This has identified that compared to the nation fleet composition, locally there is approximately 20% more non-compliant vehicles.

#### **5. Baseline Air Quality Modelling & Initial Evidence Submission:**

- 5.1 Work is progressing to transfer all the traffic data and modelling into a 2018 air quality baseline model for the area.
- 5.2 Initial indications from the baseline model show that there are further areas of exceedance around Newcastle ring road/town centre and at a number of locations in the City. Remedial measures are therefore likely to include Newcastle town centre.
- 5.3 This data will be used to assess and evaluate the shortlisted options (as detailed in section 3.2) and show which of the options will achieve compliance in the shortest possible time.
- 5.4 The Baseline Air Quality Model accompanied by traffic modelling will form part of an initial evidence submission to DEFRA.

#### **6. Bus Retrofit:**

- 6.1 A separate 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, in order to bring forward compliance in NO<sub>2</sub> levels by one year to 2025. This equates to 25 busses operated by First PMT, on bus routes 3, 4 and 4a that travel on the A53.

- 6.2 First has recently announced that First Group will be selling off its interest in First Buses. First operate all the commercial bus services operating along the A53. Work is therefore ongoing with the bus company to identify the impact upon the retrofit project.
- 6.3 First have recently identified suitable busses for retrofitting. Work will now commence on applying for funding to undertake the works.
- 6.4 It should be noted that the Borough Council (SOTCC or SCC) have no current legal powers to require First (or any other bus company) to undertake retrofit works or operate compliant busses.

## **7. Project/Programme Management & Governance:**

- 7.1 A Joint Officer Working Group has been established made up of officers from SOTCC, NULBC and SCC representing Environmental Health, Transportation, Planning and Public Health. Relevant leads in Legal, Finance, Procurement and Communications have also been identified at each authority and are being included in the project as required. The Joint Officer Working Group meet fortnightly, alternating between teleconferences and physical meetings, plus we continue to have a weekly teleconference with officials from Defra to update them on our progress and discuss issues as the project evolves.
- 7.2 An invitation to attend a Joint Action Group meeting will be extended to both authorities' Chief Executives and relevant Portfolio Holders. We will also aim to involve and keep Members updated as much as possible.

## **8. Programme Timetable:**

- 8.1 The ministerial direction requires submission of an OBC or FBC, which has been approved by all the Councils Cabinet by 31<sup>st</sup> October 2019. This has always been considered to be an extremely challenging and optimistic timescale for the assessment and completion of such a highly important and complex project.
- 8.2 To date, indications are that this deadline is not going to be met. This is due to a few reasons including: delays in obtaining confirmation for the automatic number plate recognition camera surveys; delays in the analysis to the data collected from these surveys; initial baseline modelling indicating wider exceedances meaning larger and more complex modelling; procurement delays and the complexities of working across three organisations.
- 8.3 This has been raised with the Joint Air Quality Unit, whom have confirmed that the priority is a robust assessment, however to date a formal extension has not been granted.
- 8.4 Initial indications show that at the earliest, this work could be completed by the end of 2019 but more realistically, it is likely to be spring 2020.

## **9. Clean Air Fund:**

- 9.1 Work has also begun on a separate but parallel work stream, to generate a bid to the Clean Air Fund (CAF). The CAF fund is £220 million. The details of the bid will emerge as

the Direction work develops, but in other places, the CAF has been used on initiatives such as park and ride services, freight consolidation centres, concessionary travel schemes, improvements to bus fleets, low emission/electric vehicle grants and assisting businesses.

- 9.2 The purpose of the CAF is to support local authorities to deliver action plans and to counteract any disbenefits that may arise from implementation of the directed option in the future.

## **10. Recommendation**

- 10.1 That Cabinet note the content of the report.

## **11. Outcomes Linked to Sustainable Community Strategy and Corporate Priorities**

- 11.1 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 within designated air quality management areas, this work will assist in delivering wider improvements in air quality across the town centre.

## **12. Legal and Statutory Implications**

- 12.1 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.
- 12.2 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.

## **13. Equality Impact Assessment**

- 13.1 The development of the outline business 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.

## **14. Financial and Resource Implications**

- 14.1 DEFRA has confirmed a commitment to cover the costs of the further study via grant. So far a grant commitment of £928,000 has been provided for the completion of the Air Quality Local Development Plan.

- 14.2 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.
- 14.3 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.
- 14.4 The Final (or Outline) Business case submitted by 31<sup>st</sup> October 2019 will include a preferred option 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.

## **15. Major Risks**

- 15.1 A full risk assessment has been undertaken for both these projects and is available to view on the Council's "Grace" system.
- 15.2 The main risks identified are:
- Insufficient time to complete the required work
  - Insufficient staffing resources to conduct the required work within the directed timescale.
  - Insufficient funding to support the investigation of potential measures or the backstop option of a CAZ.
  - The effects from measures required to address air quality exceedances upon other corporate strategies and priorities.
  - Defra challenging the authority's proposals and preferred option.
  - Alignment of decision making across Authorities.

## **16 Sustainability and Climate Change Implications**

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

## **17. Key Decision Information**

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

**18. Earlier Cabinet/Committee Resolutions**

- 18.1 Cabinet 6 February 2019 – Air Quality Ministerial Directions  
Cabinet 20 March 2019 – Air Quality Strategic Outline Case  
Cabinet 24 April 2019 – Air Quality Award of Contract

**19. Background Papers**

[UK Air Quality Plan](#)

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

Clean Air Zone Framework, DEFRA & DFT – May 2017

Second Ministerial Direction 4 October 2018

Third wave local authorities - guidance 16 October 2018

Funding support for third wave authorities 31 October 2018

Strategic Outline Case – January 2019