

NEWCASTLE-UNDER-LYME BOROUGH COUNCIL
EXECUTIVE MANAGEMENT TEAM'S REPORT TO THE
CABINET

Date: 16th October 2019

Report Title Air Quality Local Plan Contracts

Submitted by: Head of Environmental Health – Nesta Barker

Portfolio: Environment & Recycling

Ward(s) affected: All

Purpose of the Report

To approve the extension to an award of a contract for the Air Quality Local Plan Technical Consultant work and to approve the award of contract for the air quality project manager.

Recommendations

That the Chief Executive be authorised (and inform the Cabinet Member for Environment and Recycling) to extend the existing contract for the technical consultancy support for the air quality local plan and the contract for the provision of the joint air quality project manager to meet Ministerial Direction relating to Air Quality.

That delegated authority is granted to the Chief Executive (in consultation with the Cabinet Member for Environment and Recycling) for any further extension to the existing contracts for the technical consultancy support or project manager in order to meet the requirements of the Ministerial Direction in relation to Air Quality.

Reasons

To carry out a transport, air quality and economic assessment of a range of measures in order to identify a preferred option for achieving compliance with the legal limits in the shortest possible time as mandated by JAQU (Joint Air Quality Unit - DEFRA / Department of Transport) as a key part of the production and delivery of the Outline Business Case and Full Business Case to JAQU.

1.0 Background

- 1.1 The Borough of Newcastle-under-Lyme and City of Stoke-on-Trent, like many areas across the UK, continues to experience areas of poor air quality. The relevant Councils were highlighted by DEFRA as two of a number of Local Authorities where the UK's national air quality assessment has identified road links that are currently exceeding the annual mean nitrogen dioxide (NO₂) limit value, with exceedances predicted to continue in 2019 and beyond.
- 1.2 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).

1.3 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.

1.4 The direction requires:

Newcastle-under-Lyme Borough Council and Stoke-on-Trent City Council 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.

1.5 Cabinet have received four 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 report for the procurement of a contractor to assist with the delivery of this project was approved at April's Cabinet. In July, Cabinet received a report updating progress. In addition, this matter was also reported to Council on 3rd 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 or chargeable CAZ would be damaging to business and our town centre.

2.0 **Issues**

2.1 Through progressing the air quality local plan, additional works have been identified which are required to enable the completion of the plan but also to support the wider project. The full nature and scope of these requirements were not known at the initial procurement stage of this contract.

2.2 Such works include modelling additional alternative solutions to a chargeable CAZ and increased costs to cover a wider area of concern than the A53. In addition, further works to support a communications campaign and additional technical reports have been identified.

2.3 A contract for a joint air quality project manager has been awarded, however the contract requires extending, mainly due to the timescales required to complete outline and full business cases, and therefore requires approval due to meeting the financial regulation limits for Cabinet approval.

2.4 Such works have been subject to review by JAQU and have received grant funding to enable the completion of the air quality local plan.

3.0 **Proposal**

3.1 That the Chief Executive be authorised (and inform the Cabinet Member for Environment and Recycling) to extend the existing contract for the technical consultancy support for the air quality local plan and the contract for the provision of the joint air quality project manager to meet the Ministerial Direction relating to Air Quality.

3.2 That delegated authority is granted to the Chief Executive (in consultation with the Cabinet Member for Environment and Recycling) for any further extension to the existing contracts for the technical consultancy support or project manager in order to meet the requirements of the Ministerial Direction in relation to Air Quality.

4.0 **Reasons for Preferred Solution**

- 4.1 This is essential work which is required to comply with the Ministerial Direction served on Newcastle-under-Lyme Borough Council and Stoke-on-Trent City Council regarding serving their responsibility for Air Quality improvements. Technical and project management support is required in order to deliver this work.
- 4.2 A delegated authority for further extensions to the award of contract are requested in order to meet the timescales required for this work.

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

6.0 **Legal and Statutory Implications**

- 6.1 To ensure that air quality is improved for the Borough's residents supporting their health and wellbeing. Under Part IV of the Environment Act 1995, Local Authorities have a legal duty to review and assess air quality in their areas and to report against objectives for specified pollutants of concern, to the Department for Environment, Food and Rural Affairs (DEFRA). Air Quality Objectives are defined in European Directives that are incorporated within UK Air Quality Strategies and Regulations.
- 6.2 The ministerial direction served on the Council under the provision of The Environment Act 1995 (Feasibility study for nitrogen dioxide compliance) (No 2) is legally binding. 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.
- 6.3 The procurement approach that has been adopted involves the use of a compliant framework and as such offers some mitigation and reduces the risk to the Council of a challenge being made concerning the contract extension to the successful provider.
- 6.4 Officers have identified the Project Management & Full Design Team Services Framework RM 3741 (Lot 5) <https://ccs-agreements.cabinetoffice.gov.uk/contracts/rm3741> which is operated by Crown Commercial Services (CCS) as the most appropriate OJEU compliant procurement framework.

7.0 **Equality Impact Assessment**

7.1 The development of the Air Quality Local 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.

8.0 **Financial and Resource Implications**

8.1 The cost of the technical support contract already awarded is £566,583. The additional award amounts to a total contract value of £776,344.

8.2 The total contract cost for the air quality project management support is proposed to be £63,500.

8.3 It should be noted that the costs incurred in the delivery of this contract will continue to be recorded and reported to JAQU to be fully reimbursed.

8.4 DEFRA has confirmed a commitment to cover the costs of the further study via grant. So far a grant commitment of £1,473,500 has been awarded for the completion of the Air Quality Local Plan.

8.5 The full costs of these contract awards will be from the grant allocation received and financial reports are reviewed by the Air Quality Joint Advisory Group.

9.0 **Major Risks**

9.1 Failure to appoint adequate project management support or technical specialists to complete the required works within this time frame will compromise the Councils' ability to meet their legal obligations and may result in further legal action being taken against Newcastle-under-Lyme Borough Council and / or Stoke-on-Trent City Council.

10.0 **Key Decision Information**

10.1 The contract value of over £50,000 each makes this a key decision item.

11.0 **Earlier Cabinet/Committee Resolution**

11.1 Cabinet Report Air Quality 6th February 2019
Cabinet Report Air Quality Ministerial Direction Strategic Outline Case 20th March 2019
Cabinet Report Air Quality Award of contract 24th April 2019
Cabinet Report Air Quality Ministerial Direction Update 10th July 2019

12.0 **List of Appendices**

12.1 None

13.0 **Background Papers**

13.1 None.