



NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

EXECUTIVE MANAGEMENT TEAM'S REPORT TO CABINET

13th October 2021

Report Title: NORTH STAFFORDSHIRE LOCAL AIR QUALITY PLAN – UPDATE

Submitted by: Chief Executive

Portfolio: Environment & Recycling

Ward(s) affected: All

Purpose of the Report

To provide Cabinet with an update on work relating to the North Staffordshire Local Air Quality Plan (NSLAQP), and to clarify Cabinet's position regarding this work.

RECOMMENDATIONS

It is recommended that Cabinet:

1. Supports the exemption of ultra-low emission vehicles and emergency service vehicles from the proposed A53 bus gate and to progress these exemptions as part of the FBC.
2. Direct officers to seek agreement from JAQU to fund screening and/or modelling of the exemption of Low Emission Vehicles (as defined in this report) from the proposed A53 bus gate and if such works supports the exemption of low emission vehicles for this to be progressed as part of the FBC.
3. Direct officers to review the current and future post covid vehicle patterns on A53
4. Encourage ongoing lobbying by local MPs for both the early removal of the A53 Bus gate restrictions and the funding of modelling for Low Emission Vehicle Exemptions (if not agreed by JAQU).
5. That the stakeholder and public engagement on the proposals be progressed via on-line engagement.

Reasons

In December 2020 Cabinet received a report on the air quality project and approved the Outline Business Case for the North Staffordshire Local Air Quality Plan for submission to Government. Since that time there has been considerable work undertaken in relation to the plan, and it is timely to provide an update to Cabinet on that work and on the next steps in relation to the project.



1. **Background**

1.1 In October 2018, Ministers Coffey and Norman for the Department for Environment, Food and Rural Affairs (DEFRA) and Department for Transport (DfT) 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 Governments Joint Air Quality Unit (JAQU).

1.2 The two directions and associated JAQU guidance require:

NULBC and SOTCC 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 (CAZ). (referred to as the NSLAQP);

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.

1.3 Staffordshire County Council (as Highway Authority) is supporting the project although not included within any Ministerial Direction to date.

1.4 The project covers three areas where there exist exceedances of the air quality threshold:

- Bucknall New Road in Stoke on Trent
- A53 Etruria Road on the Stoke/Newcastle boundary
- Victoria Road, Stoke on Trent

1.5 Cabinet have received five previous reports in respect of this matter, and has been consistently of the view there is a highways/transport solution to help reduce the pollution levels and that any form of chargeable CAZ would be damaging to business and to our town centre. The Council's involvement with the project, and this report, is primarily in relation to the A53 Etruria Road exceedance.

2 **Issues**

2.1 The unapproved Outline Business Case (OBC) was submitted to central Government on 15 May 2020, in line with the requirements of the 2018 Direction and subsequent requirements of the Minister (approval had not been possible at this time due to the Covid restrictions). This OBC was subsequently approved by Cabinet in December 2020 with the caveat detailed under 2.7 of this report.



- 2.2 The OBC submission approved by all three Cabinets in December 2020, has been evaluated by the Joint Air Quality Unit and its independent review panels which confirmed that the proposals deliver against the primary aim - to deliver compliance with the statutory limit for NO₂ concentrations in the shortest possible time. This effectively commits the authorities to deliver the preferred options set out in the OBC which, for Etruria Road, includes introducing a bus gate to operate at peak times.
- 2.3 However, since the approval of the OBC, Stoke City Council have worked with the Government to evaluate the effectiveness of a CAZ C to address the Victoria Road exceedances, and following initial modelling have been given permission by the government to progress to developing an OBC followed by a Full Business Case on the basis of a CAZ C rather than the solution initially included in the OBC. A CAZ C is a chargeable clean air zone which would charge non-compliant (in terms of engine type) busses, coaches, taxis, private hire vehicles, heavy goods vehicles, vans and minibuses.
- 2.4 The Government now require that the proposals for reducing pollution and thereby improving health, at each of the three sites be developed to Full Business Case (FBC), with the requirement to progress the FBC for Etruria Road for submission to Government by summer 2022. Funding has been provided to the Council by the Joint Air Quality Unit (JAQU) for the preparation of this business case.
- 2.5 In addition, the Government has agreed to a phased approach to the delivery of the Joint Air Quality Plan, with three distinct but related phases, delivering compliance with the statutory limits for NO₂ concentrations:
- Phase 1 – bus retrofit for Bucknall New Road in the city – compliance achieved by 2023
 - Phase 2 – bus gate and associated measures on Etruria Road – compliance achieved by 2024
 - Phase 3 – City-based CAZ C covering Victoria Road, city centre and other areas – compliance achieved by 2025.

Etruria Road Bus Gate – Full Business Case Development

- 2.6 The FBC stage of the work does not usually enable the authorities to review whether they wish to change the preferred option significantly, as it was committed to by the submission of, and approval of, the OBC. The FBC effectively confirms the detailed design parameters, build costs and costs for monitoring and evaluation, plus subsequent removal. In essence, the FBC phase enables the scheme to be at a point of being ‘shovel ready’ for the implementation phase.
- 2.7 When Cabinet approved the Outline Business Case and agreed progression towards the completion of the Full Business Case for the delivery of the Etruria Road bus gate it expressed its grave concern about the disruptive impact that the Etruria Road bus gate traffic restrictions will create for motorists and local businesses, and accepted the bus gate as the “least worst” option. Cabinet have requested that the final implementation should seek to include two amendments:

- That the bus Gate should include an exemption to allow for low emission vehicles to drive through the bus gate
- That the period of disruption is minimised with the bus gate being removed as soon as it is possible to do so

Subsequent to the December 2020 Cabinet resolution, the Leader of the Council wrote to the Government Minister leading on Air Quality seeking agreement to the early removal of bus gate, and this position has been communicated to key partners.

Issues Influencing the Full Business Case

2.8 Since the development of the Outline Business Case there have been a number of issues which have the potential to impact on air quality on Etruria Road, and therefore on the Full Business Case. These are outlined below:

- **Covid Pandemic** - Further work has been completed on **assessing the impact of Covid** on traffic patterns and levels. The conclusion was that the traffic changes throughout the life of the bus-gate would be marginal and would not alter the need for the works. It may allow for early removal as mentioned above. In terms of a national reporting on this matter, this is showing that traffic is well on the way to returning to pre-pandemic levels. Locally this is also shown in the air quality monitoring which is also following similar patterns.

In July 2020 - Government asked the local authorities to look at the potential impacts of the coronavirus pandemic on traffic and hence vehicle emissions including:

- Higher prevalence of **home working**, including flexible working
- Lower use of **public transport**, either due to the requirements of social distancing and/or changes in the commercial bus network
- Higher use of **active transport**, in particular walking and cycling
- Fewer business trips due to **suppressed economic activity**, including the potential impacts linked to higher unemployment levels
- Delayed **vehicle fleet renewal** due to fewer new vehicle sales, resulting in more older (and more polluting) vehicles staying on the road for longer.

The conclusion in regard to Covid impacts is that the negative impact of Covid-19 on air quality is primarily attributable to fleet delay and is compensated for, due to a reduction in traffic due to home working, predicted slowing of economic growth and an additional year to achieve compliance. This work also confirmed that 'natural compliance' would not be reached before the bus gate could be installed and therefore concluded that works are still required.

- **Exemptions** - consideration has been given to exempting emergency services and 'Ultra Low Emission Vehicles' (ULEV) vehicles from the bus gate restrictions. Data from ANPR (automatic number plate recognition) surveys have been analysed to determine the number of these vehicles using the A53. Modelling concluded that exemptions for 'blue lights' and ULEV vehicles could be delivered while maintaining the air quality compliance.

Low Emission Vehicles

- 2.9 In their December 2020 consideration of the Air Quality project, Cabinet determined that they would wish to see Low Emissions Vehicles exempted from the restrictions of the bus gate in addition to Ultra Low Emissions Vehicles (ULEV) as discussed above.
- 2.10 Modelling indicates that the required compliance with NO₂ concentrations is only just achieved by the bus gate proposals, there is very little flexibility to enable exemptions beyond the ULEV and “blue light” exemptions above.
- 2.11 Low Emissions Vehicles are not a distinct category of vehicle is the way that ULEV vehicles are. For the purposes of CAZ, there are compliant vehicles which are based on the euro classification of the engine. On this basis, a “low emissions” vehicle could be taken as :
- **diesel vehicles with registrations plates 65 or newer (Euro 6 engines)**
 - **Petrol vehicles with registration plates of 06 or newer (Euro 4 engines)**
- 2.12 Further tests to determine the effects of exempting more categories of vehicles (the bus gate allows for all busses, taxis and bikes to pass through the gate at all times, regardless of engine type) will be required, if exemptions are to be extended to Low Emissions vehicles. JAQU funded the Council to undertake modelling of ULEV vehicles however the modelling has been achieved without the need to incur all of this expenditure which could, with JAQU’s agreement, be used to undertake the Low Emissions Vehicle modelling.
- 2.13 In terms of implementation, the Bus gate would be delivered by way of a traffic regulation order, which would be progressed by Staffordshire County Council as Highways Authority. Evaluation of the impact of exempting low emissions vehicles will require input from the County Council regarding the legal processes surrounding such exemptions.

E10 petrol

- 2.14 E10 petrol which has been introduced contains double the amount of bioethanol, C₂H₅OH, compared to the old E5 petrol which is being discontinued. The objective is primarily linked to reducing carbon emissions and supporting the climate change agenda, as opposed to reducing the emissions of NO₂ which is harmful to human health.
- 2.15 The impact of the E10 fuel on air quality exceedances has been taken into account in modelling and it has been established that the change to E10 will not have any significant impact on the overall assessments for any part of the study area and provides no assistance in delivering compliance with the statutory limit for NO₂ concentrations.

Early Removal of Bus Gate

- 2.16 Cabinet have previously indicated their expectation that the bus gate restrictions should be removed at the earliest opportunity, once compliance is reached and is shown to be sustainable. The ongoing renewal of vehicles means that, with the passage of time, more and more of the older higher polluting vehicles are being replaced by newer ones that emit less or no NO₂. Eventually, a point is reached where, even without the bus gate in place, NO₂ concentration levels would not exceed the statutory limit, meaning that the bus gate could be removed, without risk of breaching the requirements of the Ministerial Direction. This is known as “natural compliance”.
- 2.17 The assessment of NO₂ concentrations across the study area suggests that Victoria Road in the city is likely to take the longest to achieve natural compliance. The requirements of the Ministerial Direction are for all interventions to remain in place until the whole study area has delivered natural compliance, which would mean that the Etruria Road bus gate stays in place for longer than it is required.
- 2.18 The Leader has written to ministers, asking that the bus gate be removed as soon as natural compliance can be proven to have been achieved and is maintainable, without the bus gate. A response is anticipated shortly and it is expected to be favourable.

Stakeholder and public engagement

- 2.19 The FBC stage of the business case for Etruria Road requires a level of engagement with people likely to be affected by the proposals. It is proposed that this engagement be undertaken on line through the development of a specific web page relating to phase 2 A53 proposals.
- 2.20 Whilst the Etruria Road bus gate requires public engagement, the implementation of a CAZ C in Stoke on Trent will require a more expansive consultation exercise, and it is anticipated that this exercise will also raise awareness of the Etruria Road proposals.

3. Proposal

- 3.1 It is proposed that Cabinet:
- (a) Supports the exemption of ultra-low emission vehicles and emergency service vehicles from the proposed A53 bus gate and to progress these exemptions as part of the FBC.
 - (b) Direct officers to seek agreement from JAQU to fund screening and/or modelling of the exemption of Low Emission Vehicles (as defined in this report) from the proposed A53 bus gate and if such works supports the exemption of low emission vehicles for this to be progressed as part of the FBC.
 - (c) Direct officers to review the current and future post covid vehicle patterns on A53.
 - (d) Encourage ongoing lobbying by local MPs for both the early removal of the A53 Bus gate restrictions and the funding of modelling for Low Emission Vehicle Exemptions (if not agreed by JAQU).
 - (e) That the stakeholder and public engagement on the proposals be progressed via on-line engagement.

4. Reasons for Proposed Solution



- 4.1 The proposed solution enables the Council to progress its stated aims of improving the air quality and therefore health of residents where there is an exceedance of legal levels of NO₂ and at the same time minimising the negative impact of the A53 Bus gate on residents and businesses by seeking to secure both exemptions for low emissions vehicles and the early removal of restrictions once compliance is achieved.

5. **Options Considered**

- 5.1 The October 2018 Ministerial Direction places a statutory duty upon Stoke-on-Trent City and Newcastle-under-Lyme Borough Councils to undertake a feasibility study and identify a preferred option, which had to be assessed against a benchmark clean air zone.
- 5.2 A further Ministerial Direction will be issued after submission of the FBC, legally obliging the three local authorities to fully implement the preferred option.
- 5.3 At this stage in the study, the authority has the option to either progress to FBC with the solution described in the OBC, or to seek to determine the feasibility of the amends and improve that proposal in the interests of residents and businesses.

6. **Legal and Statutory Implications**

Ministerial Direction:

- 6.1 A Ministerial Direction - the "Environment Act 1995 (Feasibility Study for Nitrogen Dioxide Compliance) (No. 2) Air Quality Direction 2018" was issued to Stoke-on-Trent City and Newcastle-under-Lyme Borough Councils on 4 October 2018. This imposes a legal requirement on the two authorities 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 NO₂ in the shortest time possible
- 6.2 Following Government approval of the Full Business Case in summer 2022, a further Ministerial Direction will be issued by Government, using the power conferred by section 85(5) of the Environment Act 1995, imposing a legal duty on the local authorities to implement the preferred option.
- 6.3 The Ministerial Direction served on the Council under the provision of The Environment Act 1995 (Feasibility Study for Nitrogen Dioxide Compliance) (No. 2) Air Quality Direction 2018 is legally binding. Failure to comply with this Direction may result in judicial review proceedings being brought against the Council. Any such proceedings could result in adverse costs awards being made against the Council.

7. **Equality Impact Assessment**

- 7.1 A joint Equality, Environmental and Community Impact Assessment will be undertaken as part of the Full Business Case process and will be reported to Cabinet in due course.

8. **Financial and Resource Implications**

- 8.1 The costs associated with developing the Full Business Cases, and subsequent implementation, monitoring and evaluation of the preferred option, will be met through Central Government grants, administered by the Government's Joint Air Quality Unit (JAQU).
- 8.2 The preparation of the NSLAQP is being carried out in-house, working jointly with officers from Stoke-on-Trent City Council and Staffordshire County Councils, plus transport, air quality and project management consultancy support. Whilst the work places a significant additional burden on existing staff, all costs including staff time are being met through Central Government grants
- 8.3 The proposals in this report, and specifically the additional modelling sought for Low Emissions Vehicles, will need to be funded by JAQU, hence the recommendation that officers seek agreement to both the action and the funding.

9. **Major Risks**

- 9.1 A comprehensive risk assessment has been undertaken as part of the OBC development. In terms of the specific proposals in this report the key risk is that JAQU decline to fund further modelling as sought and direct the Council to progress to FBC with the scheme exempting only ULEV.

10. **UN Sustainable Development Goals (UNSDG)**

- 10.1 Any option that is implemented to tackle nitrogen dioxide exceedances may have indirect sustainability and climate change benefits or impacts.
- 10.2 The OBC (Appendix C) assesses climate change implications through the assessment of the carbon dioxide (CO₂) change throughout a 10 year operation period. This utilises data obtained through the TUBA assessment. The preferred option is calculated to have 13,324 tonne CO₂ Increase. The benchmark CAZ D is calculated to have a 194,854 tonne CO₂ decrease.
- 10.3 The increase for the preferred option reflects the increase in travel distance as some vehicles reroute to avoid the bus gates. The improvement under the CAZ scenario mostly reflects vehicle upgrades to avoid the CAZ charge.



11. **Key Decision Information**

11.1 This item is not a key decision.

12. **Earlier Cabinet/Committee Resolutions**

12.1 The following reports have been submitted:

1. Air Quality Ministerial Direction - 6 February 2019.
2. Air Quality Ministerial Direction – Strategic Outline Case - 20 March 2019.
3. Award of Air Quality Local Development Plan - Technical Consultant Contract 24th April 2019.
4. Air Quality Ministerial Direction Update 10 July 2019.
5. Air Quality Local Plan Contracts 16 October 2019.
6. Air Quality Briefing – Economy, Environment & Place Scrutiny Committee – 5 February 2020.
7. NSLAQP – OBC – Economy, Environment & Place Scrutiny Committee – 12 November 2020.
8. NSLAQP – OBC – Cabinet December 2020

13. **List of Appendices**

None

14. **Background Papers**