

Bath & North East Somerset Council

DECISION MAKER:	Cllr Bob Goodman, Cabinet Member for Development and Neighbourhoods Cllr Mark Shelford, Cabinet Member for Transport and Environment	
DECISION DATE:	On or after 17th March 2018	EXECUTIVE FORWARD PLAN REFERENCE:
		E 3048
TITLE:	National Air Quality Plan- approval of Strategic Outline Business Case	
WARD:	All	
AN OPEN PUBLIC ITEM		
List of attachments to this report: Environment Act 1995 (Feasibility Study for Nitrogen Dioxide Compliance) Air Quality Direction 2017		

1 THE ISSUE

- 1.1 The publication of the National Air Quality Plan in July 2017 mandated Bath and North East Somerset Council to produce a feasibility study and identify a preferred option, or package of measures, for delivering compliance with the air quality objective for nitrogen dioxide in Bath in the shortest time possible and by 2021 at the latest. As part of this legal duty, the Council is required to produce a Strategic Outline Business Case (SOBC) setting out a short list of possible options for compliance by the end of March 2018, with the submission of a full business case identifying the preferred option by the end of December 2018 at the latest. This report considers the SOBC and the options which should be taken forward for further modelling and assessment.
- 1.2 The SOBC is also subject to a review by the Joint Air Quality Unit (JAQU) which is made up of DeFRA (Department for Food and Rural Affairs) and DfT (Department for Transport). Due to the constrained timescales of this project the outcome of this review will not be known until after the initial publication of this report on the Forward Plan. The fully reviewed and final SOBC will be provided to the Cabinet Members as soon as it has been reviewed by JAQU and published with their final decision.

2 RECOMMENDATION

The Cabinet Members are asked to;

- 2.1 Agree the packages of measures proposed by the SOBC that will be subject to further modelling, assessment and public engagement
- 2.2 Agree that any minor amendments to the SOBC suggested by the review by JAQU can be actioned by the Strategic Director for Place in conjunction with Cabinet Members.

3 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

- 3.1 This project is externally funded by JAQU. The Council has been allocated funding until December 2018 for completion of the feasibility study and business cases.
- 3.2 The Council will then be eligible to apply for further government funding to implement its preferred option after December 2018, which is likely to include both capital and revenue funding. In the unlikely event that the Council is not successful in receiving funding after December 2018, then this will need to be reflected in the setting of future budgets.
- 3.3 A Project Board has been convened to oversee governance and the allocation of funding; staff in Public Protection and Health Improvement are supported by staff in Public Health, Transport, Highways, Project Management and Engagement professionals and expert transport and air quality consultants.

4 STATUTORY CONSIDERATIONS AND BASIS FOR PROPOSAL

- 4.1 The Council has been mandated through the Environment Act 1995 (Feasibility Study for Nitrogen Dioxide Compliance) Air Quality Direction 2017 'the Direction' to undertake a feasibility study to identify an option which will deliver compliance with legal limits for nitrogen dioxide in Bath, in the shortest time possible and by 2021.
- 4.2 The preferred option that will achieve compliance with the Direction must be identified and agreed upon by 31 December 2018 at the latest.
- 4.3 In achieving compliance with this Direction, the Council must deliver a SOBC by 31 March 2018. The options within the SOBC will be ratified through this Joint Member Decision. Advice has been sought from the Council's Monitoring Officer and due to the constrained timescales involved the decision will be exempt from call in, because this would prevent compliance with the legally imposed time deadline for submission of 31 March 2018.
- 4.4 The SOBC will recommend a short list of packages of measures which will bring about compliance with the legal limits for nitrogen dioxide within the Government's deadlines.
- 4.5 On 31 May 2012, Part 2 of the Localism Act 2011 dealing with EU financial sanctions came into force. The provisions give the Secretary of State a discretionary power to require local authorities to contribute to any EU financial sanction imposed under Article 260(2) of the Treaty of the Functioning of the European Union when the acts of the authority have caused or contributed to the

infracton of EU law. Having been served with the Direction, the Council is at risk of financial penalty if the Council does not contribute towards the UK meeting the legal nitrogen dioxide limits. Accordingly the Council must take such measures to contribute towards compliance with the legal limits for nitrogen dioxide.

5 THE REPORT

Bath and North East Somerset Council has been carrying out monitoring of nitrogen dioxide within its local authority area since 2002. Where exceedances of the national air quality objective have been identified, Air Quality Management Areas (AQMAs) have been declared. So far three AQMAs have been declared for nitrogen dioxide, including the major road network within Bath, Keynsham High Street and a small section of the A4 in Saltford. Two further AQMA's are in the process of being declared in Temple Cloud and Farrington Gurney.

- 5.1 In 2017, a planned review was launched of the Bath Air Quality Action Plan and a public consultation took place between September and December, just after the publication of the National Air Quality Plan and the issuing of the Direction to the Council.
- 5.2 The SOBC will set out how a long list of options to improve air quality in Bath were developed in conjunction with stakeholders as part of the review of the Bath Air Quality Action Plan; how these options were assessed against a list of critical success factors, and how a short list of three packages of measures were developed which will be taken forward for more detailed assessment.
- 5.3 The SOBC is being produced in line with guidance issued by JAQU in 2017 and the HM Treasury Green Book.

6 RATIONALE

- 6.1 The Council has a legal duty to comply with the Direction and must achieve compliance within the shortest time possible. The options identified in the SOBC will be chosen on the basis that they are the only options which will ensure the Council's compliance with the Direction.

7 OTHER OPTIONS CONSIDERED

- 7.1 In arriving at the shortlist of options, the Council's Project Team considered a long list of options, all of which were developed from the review of the Bath Air Quality Action Plan. The options taken forward for further assessment are those which will provide the necessary compliance in the shortest time possible.

8 CONSULTATION

- 8.1 Extensive consultation and engagement took place to inform the review of the Bath Air Quality Action Plan and this process is continuing to progress compliance with the National Air Quality Plan. Engagement from residents and businesses within Bath and North East Somerset is crucial to ensuring the required behaviour change that will achieve compliance with the legal duty imposed upon the Council. An Engagement Plan has been developed to ensure the identification of key stakeholders and delivery of engagement events throughout 2018.

8.2 The Council's Cabinet Member for Development and Neighbourhoods, Cabinet Member for Transport and Environment, Group Manager for Public Protection and Health Improvement, Monitoring Officer and Section 151 Officer, have had the opportunity to input to this report.

9 RISK MANAGEMENT

9.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision making risk management guidance.

Contact person	<i>Cathryn Brown, 01225 477645</i>
Background papers	<i>None</i>
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