

Bath & North East Somerset Council		
MEETING/ DECISION MAKER:	Cabinet	
MEETING/ DECISION DATE:	18 <sup>th</sup> December 2018	EXECUTIVE FORWARD PLAN REFERENCE:
		E 3103
TITLE:	Business Plan Update - Clean Air Zone	
WARD:	All	
AN OPEN PUBLIC ITEM		
List of attachments to this report:		
None		

## 1 THE ISSUE

- 1.1 The six week public consultation on the Clean Air Zone (CAZ) options was one of the most comprehensive engagement exercises undertaken by the authority with over 8,400 responses. It has not been possible to fully analyse all of the responses within the original timeline due to the volume and the number of comprehensive responses received in the last three days of the consultation period.
- 1.2 To adhere to the timetable originally set presents a risk that the Council could be legally challenged on the grounds of a flawed consultation and a Business Case that has not recognised the full extent of the very detailed and technical submissions made by local residents and interested parties.
- 1.3 This report therefore sets out the options for a revised timeline for the delivery of the project.

## 2 RECOMMENDATION

The Cabinet is recommended to;

- 2.1 Note the unprecedented high number of consultation responses, as highlighted in section 8 of this report.
- 2.2 Receive a further report with fully costed and modelled options, including a range of mitigation measures as soon as is reasonably possible. In any event receive an update report in March 2019.

- 2.3 Request a full analysis of the consultation responses and any consequential statistical and financial modelling work deemed necessary to ensure comprehensive consideration of the wide range of comments received.
- 2.4 Request Officers to continue to liaise with the Joint Air Quality Unit (JAQU) regarding the timeline and the on-going funding for the remaining Outline and Full Business cases (OBC and FBC), subject to understanding the implications of further modelling.

### **3 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)**

- 3.1 A full economic and financial modelling process is required as part of the OBC. Draft versions of the relevant documents required as part of the OBC (excluding those withheld for reasons of commercial sensitivity) are published on the Council website.
- 3.2 The delivery of the CAZ may have a significant impact on Bath and North East Somerset in a number of areas. Therefore, until a final decision is made on the type and format of the CAZ, this impact cannot be fully assessed or presented.
- 3.3 Whilst the council may defer a decision on the details of what the zone looks like, officers are continuing to work, subject to funding being agreed with JAQU, on the OBC and FBC and will present a report as soon as the consultation, financial and additional air quality modelling is concluded.

### **4 STATUTORY CONSIDERATIONS AND BASIS FOR PROPOSAL**

- 4.1 Under the Environment Act 1995 and following a binding ruling by the Supreme Court upon the Government a Ministerial Direction was issued to Bath and North East Somerset Council in July 2017. The Direction stipulates that Bath and North East Somerset Council shall prepare a final plan for a scheme to deliver compliance with legal limits by 31st December 2018 in line with the UK Air Quality Plan (AQP). The Government Direction requires compliance with the Air Quality Objectives no later than 2021.
- 4.2 In accordance with the legal obligations as set out within [ClientEarth (No.2) v Secretary of State for the Environment, Food and Rural Affairs (2016)], the authority is required to:
  - (1) Achieve compliance as soon as possible and
  - (2) Choose a route to compliance which reduces human exposure as quickly as possible and
  - (3) Ensure that compliance is not just possible but likely
- 4.3 In addition to the above legal tests, the Council is legally required to give due consideration to the responses to the recent consultation exercise and the discharge of our duties under the Equalities Act 2010.
- 4.4 The Council had assumed a high level of public interest and response. However, due to the higher than anticipated level of response to the public consultation it is not possible to fully analyse the feedback and undertake any further modelling and financial assessment in order to present a comprehensive report within the original timeline.

- 4.5 It should be noted that despite the challenging timeline set by Government the Council achieved the deadline for submitting the initial plan to the Joint Air Quality Unit and immediately proceeded with the technical work necessary to develop a final plan and preferred option. Extensive public and partner engagement on the initial plan was also undertaken in parallel with a view to enabling the shortest possible consultation on the final plan and preferred option. However, the extent of the response requires additional time to complete this piece of work effectively and fairly.

## 5 THE REPORT

- 5.1 Residents and businesses have taken the time to engage with the Council and as such, they deserve a considered response. This is particularly important given the unique nature of Bath which is one of only two entire cities designated by UNESCO as World Heritage Sites, the other being Venice, the area surrounding the city is also designated. This makes the city a major tourist destination whilst it is also a key transit point between the south coast and the motorway network. Therefore, the council has to balance addressing air quality, that has the potential to be a highly complex and controversial issue, with measures that may be perceived to unfairly “penalise” residents and businesses when the causes of the poor air quality also relate to transiting traffic, tourism and the topography of the city and surrounding area.
- 5.2 As a responsible public body, the Council takes its duties and responsibilities seriously and has demonstrated best endeavours to comply with Government Directive and legal requirements. It should also be noted that the Council is significantly further ahead in this process than a number of other local authorities provided with an air quality direction.
- 5.3 Whilst the volume and complexity of responses to the consultation is unprecedented, certain themes are emerging, these include:
- Suggestions to either extend or reduce the boundary of the zone
  - Other alternative measures to address the air quality levels
  - Diversion routes to avoid ‘rat runs’
  - Identification of impacts of the proposals on specific groups of people, specific localities and businesses
  - Suggestions on mitigation measures such as; charging variations, public transport measures, access restrictions, infrastructure improvements, parking and transport management measures and development of low emission transport modes
- 5.4 The Joint Air Quality Unit, commonly known as JAQU, was established by UK government departments for transport and the environment to deliver national plans to improve air quality and ensure compliance EU air quality objectives. Air quality modelling is central to developing these plans. In accordance with JAQU guidance, modelling for the local CAZ has been undertaken using the most frequently used UK model for assessing emission concentration from road traffic sources (Ref: Atmospheric Dispersion Modelling System for Roads). The model inputs include; emission sources, meteorological data, background pollution levels and the likely impacts of structures/urban environments.

## 6 RATIONALE

- 6.1 As set out within the report, failing to fully understand the outcomes from the public consultation when making a significant decision which could affect the travel choices of a large number of people within Bath & North East Somerset and across the wider area and would leave the Authority at risk of legal challenge. The principles adopted to ensure fair consultation are detailed below:

- (i) consultation must take place when the proposal is still at a formative stage;*
- (ii) sufficient reasons must be put forward for the proposal to allow for intelligent consideration and response;*
- (iii) adequate time must be given for consideration and response; and*
- (iv) the product of consultation must be conscientiously taken into account.*

- 6.2 Section 8 of this report highlights the extensive consultation undertaken and the Bath Breathe newsletter has provided regular updates to ensure that this issue has been well communicated public.

## 7 OTHER OPTIONS CONSIDERED

- 7.1 The Cabinet could make a decision at this meeting based on the feedback that has been analysed to date from the consultation exercise with a full report following in due course. The advantages of continuing on this basis are:
- The council is complying with the letter of Direction
  - It maintains the current implementation timeline
- 7.2 However, the risk of this approach is that the Cabinet does not have access to a complete analysis of the consultation responses, nor any additional modelling data that may be required to give due consideration to the comments received.
- 7.3 On this basis, this option was rejected.

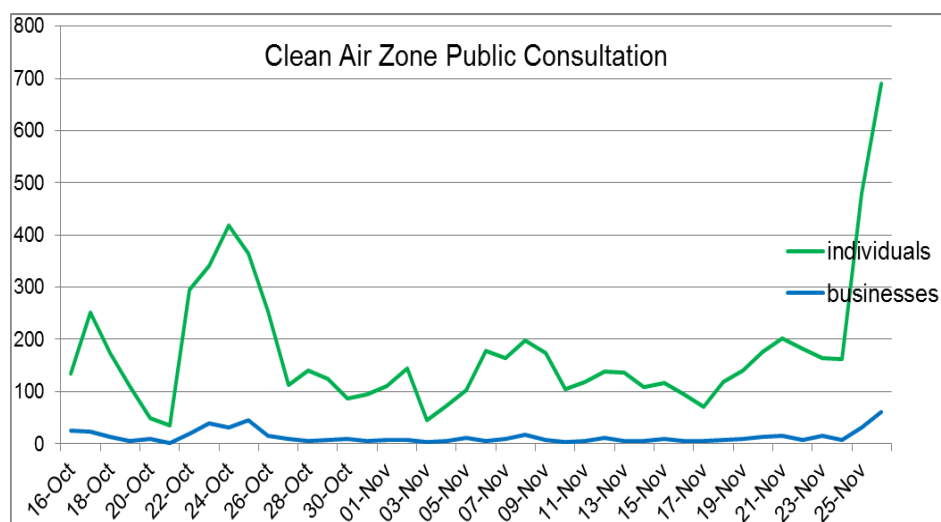
## 8 CONSULTATION

- 8.1 The six week public consultation on the CAZ options was one of the most comprehensive engagement exercises undertaken by the authority. The engagement plan included:
- 8.2 9 drop in events and 10 surgeries held in Bath, Keynsham and Midsomer Norton, attended by approximately 750 people
- 8.3 The Project Team have held 56 separate stakeholder meetings and have engaged with around 1,000 people through these meetings
- 8.4 A summary of the number and nature of the responses is detailed below

Nature of Response	Number	% of total responses
<b>On-Line</b>		
Businesses/Organisations (Surveys)	567	7%
Individuals/Interest Groups (Surveys)	7,314	87%
E Mails <i>Note: This is an approximate figure</i>	120	1%
<b>Total (On-line):</b>	<b>8,001</b>	<b>95%</b>

Paper Copies		
Surveys <i>Note: 120 surveys entered, 150 approximate figure</i>	270	3%
Letters <i>Note: This is an approximate figure</i>	150	2%
<b>Total (Paper):</b>	<b>420</b>	<b>5%</b>

- 8.5 95% of responses were submitted electronically. 20% of responses were submitted during the last three days of the consultation, see graph below:



- 8.6 Additionally, approximately 1.7 million words of text have been submitted in support of the consultation responses, including a large number of technical submissions from individuals and groups of up to 64 pages in length.

## 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.

<b>Contact person</b>	<i>Chris Major x4231</i>
<b>Background papers</b>	<i>List here any background papers not included with this report, and where/how they are available for inspection.</i>
<b>Please contact the report author if you need to access this report in an alternative format</b>	

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