

<b>Bath &amp; North East Somerset Council</b>		
MEETING/ DECISION MAKER:	<b>Cabinet</b>	
MEETING/ DECISION DATE:	<b>5 March 2019</b>	EXECUTIVE FORWARD PLAN REFERENCE:
		<b>E 3132</b>
TITLE:	<b>Bath Clean Air Plan</b>	
WARD:	All	
<b>AN OPEN PUBLIC ITEM</b>		
<p><b>List of attachments to this report:</b></p> <p>Appendix 1: Response to CTE Panel requests</p> <p>Appendix 2: Financial assessment of the Outline Business Case</p> <p>Appendix 3: Equalities Impact Assessment [Revised March 2019]</p> <p>Appendix 4 Queen Square traffic management scheme:</p> <p>Appendix 5: Revised CAZ boundary plan</p> <p>Appendix 6: Consultation Response Report and associated appendices</p>		

## **1 THE ISSUE**

- 1.1 Poor air quality is the largest known environmental risk to public health in the UK. Investing in cleaner air and doing more to tackle air pollution are priorities for the EU and UK governments, as well as for Bath and North East Somerset Council (B&NES). B&NES has monitored and endeavoured to address air quality in Bath, and the wider B&NES area, since 2002. Despite this, Bath has ongoing exceedances of the legal limits for Nitrogen Dioxide (NO<sub>2</sub>) and these are predicted to continue until 2025 without intervention.
- 1.2 This report provides an update on the actions undertaken following the Cabinet meeting in December 2018 and sets out the decisions required to submit the final Outline Business Case (OBC) to Central Government containing the preferred final Clean Air Plan (CAP) to discharge the requirements within the Ministerial Direction served on the Council in July 2017.
- 1.3 A draft OBC was subject to public consultation on 16 October 2018 for a period of six weeks based on the preferred option of a charging Class D Clean Air Zone (CAZ) charging all vehicles. Since then work has been undertaken to process the outcome of the consultation and prepare a revised, final OBC for the delivery of the CAP. The revised OBC further assesses the shortlist of options set out in the

Strategic Outline Business Case (SOC), and proposes a revised package of measures, including a revised class of CAZ which will still bring about compliance in the shortest time possible in Bath. The final OBC also includes further details about how the scheme will be implemented and the revised funding bid to central government to ensure successful implementation of the CAP.

1.4 The consideration of options for a CAZ, comprises three main elements:

- The charging mechanism (class of zone);
- The boundary of the zone; and
- The details of the bid to be submitted to government to implement the zone, along with mitigation measures for those households and businesses that are expected to be disproportionately impacted by the scheme.

All of the above should be considered in light of:

- the public consultation outcomes and the further technical and financial modelling done;
- having due regard to the council's legal obligations in respect of air quality (AQ), public consultation, equalities and the Ministerial Direction; and
- the risks associated with each option.

## **2 RECOMMENDATION**

The Cabinet is recommended to;

- 2.1 Consider and accept the revised OBC as the final plan as set out within the Ministerial Direction and to support this final plan to be submitted for approval.
- 2.2 Subject to confirmation of funding implement a charging Class C CAZ charging all vehicles except cars, along with targeted traffic management in Queen Square.
- 2.3 Subject to confirmation of funding implement an enhanced package of supporting measures as set out in paragraph 3.6, including grants and interest free loans for residents and businesses, in order to achieve sufficient improvements in air quality and public health.
- 2.4 Have due regard to the Equalities Impact Assessment and the community impacts of the decision being taken in line with the requirements under the Equalities Act 2010.
- 2.5 Note the recommendations from the CTE panel and the responses provided in Appendix 1.
- 2.6 Note the Consultation Report and Consultation Response Report (as published on <http://www.bathnes.gov.uk/bath-breathes-2021>) setting out the views of the respondents to the public consultation and analysis of these views.

- 2.7 Agree the concessions and exemptions as set out within the Proposed System Design Features and Payment Exemptions report (as published on <http://www.bathnes.gov.uk/bath-breathes-2021>).
- 2.8 Agree a charge of £9 per 24 hour period for non-compliant taxis (Hackney Carriages and Private Hire Vehicles) and LGVs/vans and £100 per 24 hour period for non-compliant coaches, buses and HGVs.
- 2.9 Agree a Penalty Charge Notice rate of £120 (plus the CAZ charge), which will be reduced by 50% to £60 (plus the CAZ charge) if paid within 14 days in line with the requirements of the appropriate legislation.
- 2.10 Note the revision to the zone boundary so that it now includes the Pulteney Estate area, and agree the revisions to the zone boundary so that it also now includes the Bathwick Estate and Sydney Place areas and the Oldfield Road junction with the A367 within the zone boundary.
- 2.11 Agree the proposed monitoring arrangements for AQ and traffic flows in Bathampton as specified in section 5.9 of the report.
- 2.12 Agree an amendment to the Council's Event Policy to restrict any event which will have a detrimental impact on AQ.
- 2.13 Agree that the decision to submit the Full Business Case (FBC) and make the Charging Order is delegated to the Chief Executive in consultation with the Council's s151 Officer, Monitoring Officer, Leader and Cabinet member for Development and Neighbourhoods.

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

- 3.1 An economic assessment is required to be undertaken for any packages of measures that are likely to lead to compliance in the shortest time possible. The technical modelling has identified that either a charging Class C CAZ with traffic management or a charging Class D CAZ will achieve compliance by 2021.
- 3.2 As part of the project, an economic assessment has been undertaken in accordance with Joint Air Quality Unit (JAQU) guidance and the HM Treasury Green Book principles. The assessment shows that over the life of either scheme, the overall economic impact is forecast to be a change of approximately 0.17% of GVA (Gross Value Added) within B&NES.
- 3.3 Funding for the implementation of the preferred CAZ option is being sought from the Government's Implementation Fund which is designed to support local authorities in the planning and delivery of targeted action to improve AQ. Additional funding is also being sought from the Government's Clean Air Fund. This allows local authorities to implement additional measures designed to mitigate the negative impacts of introducing a CAZ by providing direct support to those impacted. This fund is a competitive bid process and focusses on the impacts described in the Distribution and Equalities Impact Analysis within the Outline Business Case (OBC). The Council is advised that funding will only be made available to schemes that achieve the critical success factors as set out within JAQU Guidance.

- 3.4 The mechanism of charging for driving through a CAZ is intended to act as a disincentive for driving non-compliant vehicles, and to therefore encourage the acquisition of compliant vehicles and a shift to more sustainable modes of travel such as walking, cycling and public transport.
- 3.5 It is a requirement of the Transport Act 2000 that a general plan outlining the use of the net proceeds from the CAZ for a period of 10 years and a detailed programme for the application of the net proceeds during the opening five year period is developed. This will be incorporated in the Charging Order at FBC stage.
- 3.6 Appendix 2 provides details of the financial assessment for the (OBC). This covers the total grant request and forecast revenue and both the capital and revenue expenditure for charging Class C and Class D schemes. There is also a breakdown of the following:

- a) the core scheme
- b) the supporting measures for households
- c) the supporting measures for business

It also sets out the surplus revenue reinvestment reserve from both schemes to be reinvested into sustainable transport policies. As set out in the attached Appendix the total grant funding request to government (both capital and revenue) is £43,500,463 for Class C and £40,256,062 for a Class D scheme.

Please note that all capital and revenue funding is subject to available grant funding and the scheme will need incorporating into the Councils capital programme once the grant is confirmed.

- 3.7 The difference in revenue between the two options is a direct result of cars being excluded from the Class C CAZ. With less non-compliant vehicle classes being subject to the charge, the potential revenue generated from the scheme reduces significantly. There is also a risk around the full realisation of the CAZ income as this is based on modelling assumptions. This risk will be mitigated in the first two years of operation through revenue grant funding.
- 3.8 With revenue grant funding from central Government, the CAP is forecast to generate a significant positive cash flow over the appraisal period of 10 years.
- 3.9 Any cash flow surplus associated with the scheme will be ring fenced for the following purposes, in order of priority:
- Creation of a Sinking Fund to safeguard ongoing and long-term operational expenditure, particularly in years 2029-2030 when the scheme is anticipated to face an operational deficit, as well as decommissioning;
  - Creation of a Clean Air Revenue Re-Investment Reserve, where any residual revenue surplus will be used by B&NES to:
    - Support and extend the non-charging measures identified to supplement the Clean Air Plan;

- Support programmes and policies both in Bath and the wider Council area that are aligned with the aspirations of the Clean Air Plan (i.e. wider air quality and transport priorities including investment in public and school transport solutions);
- Mitigate any negative impacts on the Councils budget that arises from the implementation of the CAZ.

3.10 In contrast to the charging Class C CAZ scheme a charging Class D CAZ is forecast to generate extra revenue (as set out in Appendix 2) which would provide the authority with additional funds to support programmes and policies aligned with the aspirations of the Council in regard to sustainable transport solutions.

3.11 The Council will align, where possible, the infrastructure works associated with the CAZ implementation with other highway and transportation work programmes, to minimise disruption and ensure value for money.

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

4.1 In 2010 the formal deadline passed for EU Member States to comply with legal limits for nitrogen dioxide concentration levels set under the Directive to protect human health. Where a breach of the limits takes place after the relevant deadline, air quality plans must be prepared to achieve compliance "in the shortest time possible". Eight years on from the deadline, the UK continues to breach legal limits.

4.2 The European Commission has referred the United Kingdom to the European Court of Justice (ECJ) for failing to respect agreed air quality limit values and for failing to take appropriate measures to keep exceedance periods as short as possible. This action has been taken as the Commission considers that the UK has not presented credible, effective and timely measures to reduce pollution, within the agreed limits and as soon as possible, as required under EU law. The Commission is understood to have decided to proceed with legal action.

4.3 The ECJ may impose both a periodic penalty payment and a lump sum on a Member State, and the Commission's current position is to seek both a penalty payment and a lump sum in every case it refers to the ECJ. It is too early to quantify the potential financial sanction with any accuracy, but it would be calculated taking into account:

- a) the importance of the rules breached and the impact of the infringement on general and particular interests,
- b) the period the EU law has not been applied,
- c) the country's ability to pay, ensuring that the fines have a deterrent effect.

4.4 Given the nature of the non-compliance, its duration and its impact on the wider population, the penalty could potentially be substantial. Whilst any financial penalty imposed by the ECJ would be imposed upon the UK government, Part 2 of the Localism Act 2011 empowers the government to require local authorities to make payments of amounts, as determined by the government, in respect of an EU financial sanction.

- 4.5 In effect, this allows UK central government to pass on all, or a proportion of, any fines imposed by the ECJ to local authorities in England which the government considers have contributed to the failings that have led to the above proceedings. As one of the local authorities involved, the Council could be at risk of having a large fine imposed on it by the UK government, depending upon the exact amount of the penalty imposed by the ECJ. This is an important risk to the Council. At present the impact of Brexit is unclear with regard to this process and the threat of fines.
- 4.6 Under the general power of competence per Section 1 of the Localism Act 2011, the Council has the power to enter into the arrangements set out in this report and are within the boundaries and limits of the general power of competence Section 2 and 4 of the Localism Act 2011.
- 4.7 It is not known how UK Government would exercise this power if at all, but it underscores the critical importance of the proposed measures to secure air quality compliance with UK and EU statutory NO<sub>2</sub> limits in the shortest time possible consistent with the constraints of the relevant legislation, its legal obligations and public law considerations. The obligation to address compliance within the shortest time possible imposes a particularly onerous burden upon the Council, but it does not mean that all other considerations are rendered worthless, for example it should continue to have regard to the consequences of the project which it would not be rational to disregard.
- 4.8 Under the Environment Act 1995, a Ministerial Direction was issued to Bath and North East Somerset Council and many other UK cities including Derby, Leeds, Nottingham and Southampton in July 2017. The Direction stipulates that Bath and North East Somerset shall prepare a final plan for a scheme to deliver compliance with legal limits by 31<sup>st</sup> December 2018 in line with the UK Air Quality Plan (AQP). The Council had a statutory duty to comply with this direction, however in light of the significant response to the public consultation the Cabinet agreed to take more time to effectively consider responses in line with the public law duty.
- 4.9 Failing to take action towards achieving compliance within the shortest possible time would leave the Council exposed to legal challenge, not only for a failure to comply with its statutory duty to comply with the Ministerial direction, but also its obligation under air quality legislation to achieve compliance with legal nitrogen dioxide limits in the shortest possible time.
- 4.10 The Client Earth No. 2 judgment gave a robust ruling on the interpretation of the obligations flowing from the Directive and, in particular, the requirement that air quality plans must be prepared to achieve compliance "in the shortest time possible". The ruling set out a three-part test for assessing air quality plans. This test requires that plans must:
1. Aim to achieve compliance as soon as possible;
  2. Choose a route to compliance which reduces human exposure as quickly as possible; and
  3. Ensure that compliance with the limit values is not just possible but likely.

The risk of challenge to the Council is increased in the context of the wide response to the consultation and the level of interest. The Council must be satisfied that it has undertaken:

- A fair, transparent and open consultation; and
- Whether the proposed decision is fundamentally different to that consulted upon in October/November 2018.

Evidence to support the Council's position includes:

- Key questions included in the public consultation, including the seeking of views on the CAZ boundary and size and the inclusion of an open ended question inviting alternative suggestions and proposals; and
- The consultation responses included feedback about the importance of getting the details of the CAZ right. There was a general theme of people wanting an overall less impactful scheme and concern on the level of charge. People recognised that there were only two exceedances within the technical assessment and challenged the Council on whether more could be done to achieve an alternative solution.

4.11 Achieving compliance with air quality standards across Bath will result in widespread public health improvements. Specific health impacts for nitrogen dioxide include:

- Long-term exposure to air pollution is linked to increases in premature death, associated with lung, heart and circulatory conditions.
- Short term exposure can contribute to adverse health effects including exacerbation of asthma, effects on lung function and increases in hospital admissions.
- Other adverse health effects including diabetes, cognitive decline and dementia, and effects on the unborn child are also linked to air pollution exposure.

4.12 The Council has a public sector equality duty to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people carrying out their activities. An Equalities Impact Assessment (EIA) was drafted in September 2018 so that the Council could fulfil this duty.

4.13 As the proposals for the CAZ have developed, the Equalities Impact Assessment has been updated to reflect any implications for communities that could be disproportionately affected by the introduction of a CAZ in Bath and North East Somerset (See Appendix 3).

4.14 An important part of developing the EIA since the SOC stage has been the public consultation in October/November 2018 in which the public were asked to provide their views and comments. A specific question was asked on the particular groups of people which could be affected (both positively and negatively) by the introduction of a CAZ. The responses to the public

consultation can be found in the Consultation Response Report (as published on <http://www.bathnes.gov.uk/bath-breathes-2021>).

- 4.15 The updated EIA considers the impacts of introducing either a charging Class C or Class D CAZ. Both schemes provide improvements to air quality that are likely to bring positive benefits to those people with the protected characteristic groups of age, disability and pregnancy and maternity, who may be vulnerable to the health effects of poor air quality. Under a charging Class C CAZ the number of negative benefits is reduced primarily because cars will not be charged to enter the CAZ area and this in turn reduces the financial impact on low income households, rural communities and residents living and working in the city.
- 4.16 The introduction of traffic management as part of the charging Class C CAZ is predicted to result in a small net decrease in air quality around the location of Whiteway Road/Rush Hill, an area which has a higher concentration of children. However, it is not anticipated that the national objective for nitrogen dioxide will be exceeded in this location, it will be monitored and corrective action taken if needed and in any event it is proposed to remove the traffic management scheme as soon as compliance has been achieved. Taken overall, a charging Class C CAZ provides a greater number of positive impacts for a wider group of people within the protected characteristic groups.
- 4.17 The EIA should be read in conjunction with the Distribution and Equalities Impact Analysis (as published on <http://www.bathnes.gov.uk/bath-breathes-2021>). It will continue to be updated as the FBC is progressed.
- 4.18 Bath is recognised as a regional shopping destination. It also has a strong visitor economy which is key to Bath as an international destination. The Council continues to work with partners to maintain and enhance the city centre as a retail, cultural, leisure and sporting destination. Examples of this include our work with the Bath Business Improvement District, Visit Bath, Bath Independent Business Group and the WECA funded 'Love our High Streets' initiative.
- 4.19 Transport is widely acknowledged as a key driver of air quality issues. It is estimated in B&NES that around 92% of all Nitrogen Oxide (NOx) emissions are attributable to road traffic. Consequently, the Bath CAP has been developed with an understanding of the wider transport, business and air quality strategies in B&NES and beyond, in order to accord with these policies (for example the Getting Around Bath Strategy and Joint Local Transport Plan) wherever possible. Whilst the objectives of the CAP overlap with other local and regional strategies, and its delivery could be beneficial to achieving the objectives within these strategies, the CAP has its own specific objectives (resulting from the legal direction on B&NES) and therefore does not seek to achieve all other local transport objectives.
- 4.20 Section 8 of the report sets out the level of consultation, communication and engagement which has been carried out on Bath's proposed Clean Air Plan. As well as the period of formal consultation on specific proposals for the Clean Air Zone, this included a high level of engagement on the full range of issues relating to clean air. Following on from decisions taken by Cabinet, the intention is to build on the engagement which has been undertaken through this process and to continue to communicate clearly and openly with local residents,

businesses and visitors. In addition, the learning from our consultation on the CAP – including the high level of interest and engagement – will be fed into future consultations.

#### 4.21 Timeline and Next Steps –

Revised draft OBC submitted to JAQU setting out the preferred option following formal consultation	February 2019
Cabinet Meeting to decide on the preferred option	March 2019
Final OBC submitted to JAQU setting out the preferred option	March 2019
Letter of Direction from JAQU instructing the Council to develop the Full Business Case and implement the preferred option	March 2019
Final FBC to JAQU setting out the detailed commercial and contractual arrangements to implement the scheme	July 2019
CAZ commences operation	December 2020
Compliance with EU Limit Values	December 2021

As part of monitoring and evaluation of the proposed scheme, the latest traffic and AQ data will be monitored and regularly reviewed, to ensure that the predicted levels are in line with actual data. Data will be obtained from across Bath, with particular attention being given to areas such as Whiteway Road/Rush Hill and Bathampton. Regular reports will be provided to Cabinet and if appropriate the CAZ arrangements will be reviewed in line with Government guidance.

## 5 THE REPORT

5.1 An initial option identification and selection process was undertaken in the Strategic Outline Case (SOC) in April 2018 which identified a shortlist of packages including both charging and non-charging measures. The shortlist was developed by assessing each of the potential options against a list of Critical Success Factors (CSFs), which were defined in accordance with the JAQU guidance. The Primary Critical Success Factor is to deliver a scheme which delivers compliance with NO<sub>2</sub> air quality Limit Values and Air Quality Objectives in the shortest possible timescales. In addition, there are secondary CSF's which include mitigating financial impacts and maximising health improvement for low income groups, improving general public health and ensuring public acceptability of the scheme.

5.2 After applying these CSF's a short-list of options were provided in the SOC which were subject to public engagement from April 2018. These were:

- **Small charging Class B CAZ** with complementary non-charging measures (including walking/cycling priority schemes, cycle parking, public transport route improvements, increased use of variable message signs, targeted traffic management, some concessions and promotion of low emission vehicles).
- **Small charging Class C CAZ** with complementary non-charging measures (as listed above).
- **Small charging Class D CAZ** with complementary non-charging measures (as listed above, plus expanded Go Ultra Low packages, car sharing priority parking, car club expansion)

5.3 These options were subject to further technical modelling and assessment which concluded that only a charging Class D CAZ would be sufficient to achieve compliance by 2021. Therefore the charging Class B and Class C CAZ options were not taken forward for further analysis at that time, in accordance with the CAZ Framework requirement that non-compliant schemes were not developed further.

5.4 A formal, 6 week public consultation period was held in October/November 2018 based on the option of a charging Class D CAZ. Further details of the results of this consultation are set out in section 8 of this report.

5.5 In parallel with the public consultation further refinements to the baseline air quality modelling improved how gradients were represented. Subsequently a revised assessment of a charging C Class CAZ would now result in a single exceedance at Gay St, caused by localised traffic issues. Full details on how this outcome was derived are published within the Options Appraisal Report (as published on <http://www.bathnes.gov.uk/bath-breathes-2021>).

5.6 As a result of this change, a new option comprising a charging Class C CAZ combined with a traffic management scheme at Queen Square was developed and found to achieve the required compliance by 2021. Due to the ongoing improvements in fleet composition, the traffic management scheme would only need to be in place until such time as compliance (or other strategic objectives) is achieved. This was made possible by adapting a traffic management scheme that was already in development and could be delivered in the time available. Technical modelling has shown a charging Class C CAZ without the proposed traffic management scheme will not achieve compliance.

5.7 The traffic management scheme proposed features new traffic lights at the junctions with the A367 Chapel Row/Princes Street, and at Queen Square Place. Where possible the scheme would provide enhanced public space and new traffic light crossings. Appendix 4 shows an indicative layout of the proposed scheme.

5.8 Feedback from engagement on the SOC and the public consultation on the draft OBC resulted in a number of changes to the original boundary for the following reasons:

- The need to reduce the potential impact of ‘rat-running’;

- The need to provide safe opportunities for vehicles to turn-around before they enter the CAZ area;
- The need to rationalise the boundary in order to minimise the impact of additional street clutter (primarily signage and cameras); and
- Where alterations could be accommodated to improve the acceptability of the measures proposed to the communities that will be affected by the implementation of a new CAZ scheme.

5.9 These proposed changes are confirmed as:

- The inclusion of Pulteney Estates Residents Association area (including St Johns Road Residents Association) in recognition of the impact of vehicles changing behaviours to gain access to city centre locations;
- The inclusion of Bathwick Estates Residents Association area and Sydney Gardens Residents Association area in recognition of the strong community support to be within the CAZ area, although inclusion is not technically necessary to achieve compliance; and
- The inclusion of the area around the junction of Oldfield Road and the A367 in recognition of submitted concerns from the local community and Cabinet Member for Transport and Environment around potential 'rat running'.

Appendix 5 shows the proposed revised boundary. It should be noted that all of the proposed boundary changes listed above are likely to have less impacts under a charging Class C CAZ scheme as cars would be exempt. The boundary changes are set out in full in the Clean Air Zone Boundary Updates report (as published on <http://www.bathnes.gov.uk/bath-breathes-2021>).

5.10 Residents of Bathampton submitted strong representations to be included within the CAZ boundary. However, the modelling indicates that this is not technically necessary and to include Bathampton would require the formation of a separate 'sub-zone' which would have a significant economic and community impact. Therefore, it is proposed to agree an action plan to implement permanent Automatic Number Plate Recognition (ANPR) and AQ monitoring equipment to assess changes in the area and to understand any impacts from the baseline data.

5.11 Due to the growth in events and in particular those which might be in direct conflict with the Clean Air Zone proposals, it is recommended that the Events Policy should be amended to restrict any event which is deemed detrimental to the Council's ambitions to achieve its Air Quality objectives. The Council's Events Policy was agreed by Cabinet in 2011, with further revisions in March 2015 and November 2017.

## 6 RATIONALE

6.1 The Council has received formal instruction from the Government to achieve compliance with the legal limit in the shortest time possible, in accordance with the High Court Order in November 2016. Therefore, an

intervention is required to alleviate air quality issues that contribute to significant public health and environmental problems within Bath. The Council is considering implementation of a CAZ, including both charging and non-charging measures, in order to achieve the required improvement in air quality and public health.

- 6.2 Such a scheme represents the best intervention mechanism for achieving compliance, because it will directly facilitate changes in travel patterns and travel behaviour, thus reducing the influence of the primary cause of air quality problems - highway traffic. The rationale for a CAZ-led intervention is predicated on the ability of a CAZ scheme to quickly reduce the contribution of highway traffic to air quality pollution, consequently leading to reduced air quality pollution and compliance with National and European exceedance limits for NO<sub>2</sub>.
- 6.3 The possibility of choosing a charging Class C CAZ scheme with traffic management measures which delivers compliance means that impacts on low income households, local residents and businesses are minimised as private car owners would not be charged to enter the CAZ area.
- 6.4 A charging Class C CAZ scheme can also help to minimise the impacts on economic growth and development in Bath, thus helping to accelerate the transition to a low emission economy and creating a healthy place to live, visit and work.

## **7 OTHER OPTIONS CONSIDERED**

- 7.1 Do nothing and fail to achieve compliance with the Ministerial Direction. This was rejected due to the legal requirements set out in Section 4 of this report.
- 7.2 The preferred option put forward prior to consultation was a charging Class D CAZ. This option achieves compliance but has been rejected as the preferred option of a charging Class C CAZ provides a greater number of positive impacts for a wider group of people within the protected characteristic groups.
- 7.3 A further option was also assessed comprising an alternative charging Class D CAZ, with the same traffic management measures as the charging Class C CAZ option, and offering a concession to Euro 4 and 5 standard diesel cars. This option would also achieve compliance but has been rejected due to relatively lower impact of a charging Class C CAZ.

## **8 CONSULTATION**

- 8.1 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, would leave the Authority at risk of legal challenge.
- 8.2 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.
- 8.3 Engagement has been a critical part of the development of the proposals to improve AQ in Bath. The Council has a legal duty to consult, engage and consider the equality impacts of the proposals taken forward. It has made a commitment to communicate with both the public and stakeholders throughout the various stages, whilst both developing the plan and once agreed, the implementation of the measures to reduce nitrogen dioxide emissions.
- 8.4 The engagement process began in February 2018 and is ongoing. A wide range of engagement activities have been carried out at both SOC stage and as part of the development of the proposed OBC. The Council recognises that the proposals put forward will directly or indirectly affect a wide range of people, groups and organisations and the feedback received at key stages has helped to shape the final OBC.
- 8.5 A 6 week formal public consultation period was held between 16<sup>th</sup> October and 26<sup>th</sup> November 2018. A total of 8,421 responses were received, 7,854 from members of the public and 567 from those who represent businesses or organisations.
- 8.6 The outcomes of this formal public consultation are contained in the Consultation Report and Consultation Response Report (as published on <http://www.bathnes.gov.uk/bath-breathes-2021>). The Consultation Response Report is attached to this report for reference in Appendix 6.
- 8.7 During the consultation period a range of meetings were held; drop in sessions, 1:1 surgery sessions, Area Forums, resident's meetings and business and organisational meetings totalling 59 separate events attended by in excess of 700 people to help inform members of the public before they completed the questionnaire. These were vital in understanding the issues that were important to individuals and groups and to help develop the final proposals.
- 8.8 Specific sessions have been held with groups and representatives from hard to reach sectors to help develop the Equalities Impact Assessment for the implementation of the proposed CAZ. These include Age UK, BEMSCA (Black and Ethnic Minorities Senior Citizen Association), Off the Record charity, 3SG (a group for 3<sup>rd</sup> sector organisations in B&NES), Bath Christian Action Network and Bath Food Bank. Additional work will be undertaken for the duration of the project to ensure that any disbenefits for specific groups are assessed as appropriate to ensure that the Council's legal duties under the Equality Act 2010 are fulfilled.

## 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. Specific information can be found in the [add] (as published on <http://www.bathnes.gov.uk/bath-breathes-2021>).

9.2 The delivery and success of the Plan is linked to a range of national, sub-regional and local stakeholders and statutory bodies, whose activities, programmes and policies could have significant implications on the transport and air quality context in B&NES.

9.3 The s.151 officer has been involved in the formation of the financial case of the OBC and has signed this report off for publication.

<b>Contact person</b>	<i>Chris Major, Group Manager- Transport and Parking 01225 394231</i>
<b>Background papers</b>	<ul style="list-style-type: none"> <li>• Cabinet paper of 18 December 2018 <a href="https://democracy.bathnes.gov.uk/documents/g4661/Public%20reports%20pack%2018th-Dec-2018%2010.00%20Cabinet.pdf?T=10">https://democracy.bathnes.gov.uk/documents/g4661/Public%20reports%20pack%2018th-Dec-2018%2010.00%20Cabinet.pdf?T=10</a></li> <li>• Letters from the Department for Environment, Food &amp; Rural Affairs to Bath &amp; North East Somerset Council dated 20 December 2018, 15 January 2019 and 6 February 2019</li> <li>• Documents published on the council website - Full OBC papers including Consultation Report, Equalities Impact Assessment  <a href="http://www.bathnes.gov.uk/bath-breathes-2021-overview">http://www.bathnes.gov.uk/bath-breathes-2021-overview</a></li> </ul>
<b>Please contact the report author if you need to access this report in an alternative format</b>	