

Meeting date: 11th April 2019

Report to: Cabinet



Subject/report title: DEFRA funding for development of a business case considering interventions to improve air quality

Report from: Councillor Diccico, Cabinet Member Environment & Housing

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Wards affected:

- All Wards | Bickenhill | Blythe | Castle Bromwich | Chelmsley Wood |
 Dorridge/Hockley Heath | Elmdon | Kingshurst/Fordbridge | Knowle |
 Lyndon | Meriden | Olton | Shirley East | Shirley South |
 Shirley West | Silhill | Smith's Wood | St Alphege

Public/private report: Public

Exempt by virtue of paragraph: Select an Exemption paragraph from the Quick Parts drop-down list

1. Purpose of Report

- 1.1 To provide an update to Cabinet on the recently issued Ministerial Direction which requires Solihull Council to develop a plan to reduce roadside nitrogen dioxide (NO₂) for a section of the A45, which has previously been identified by the Department for the Environment, Food and Rural Affairs (DEFRA) as potentially exceeding roadside NO₂ concentration limits as set out in the national air quality objectives. The stretch of the A45 affected is a short stretch from the M42 junction towards the airport.
- 1.2 To seek Cabinet approval to accept £500,000 funding from 'The Joint Air Quality Unit' (a joint unit between DEFRA and the Department for Transport), to deliver the Ministerial Direction to develop a plan to bring forward compliance on the affected stretch of road in the shortest time possible, with a final plan submitted by 30th April 2020.

2. Decision(s) recommended

- 2.1 That Cabinet approves acceptance of the resource grant payment of £500,000 to Solihull Metropolitan Borough Council under Section 31 of the Local Government Act 2003, to develop a local plan to bring forward compliance in the shortest time possible in line with the guidance which will be provided by JAQU.
- 2.2 That Cabinet delegate responsibility for ensuring delivery of the Ministerial Direction to

the Cabinet Member for Environment and Housing.

3. What is the issue?

3.1 BACKGROUND

- 3.2 In February 2018 the High Court ruled that the government's July 2017 NO₂ plan was insufficient to bring the UK into compliance with the EU air quality Directive and ordered that ministers publish a supplementary plan mandating action by 33 additional local authorities (of which Solihull is one).
- 3.3 These 33 authorities were required to scope out measures to improve air quality within the soonest possible timeframe. Within Solihull two sections of the A45 were identified by DEFRA as potentially exceeding the annual mean NO₂ limit value of 40µg/m³ as set out in the national air quality objectives.
- 3.4 A feasibility study was therefore undertaken to identify any mitigating measures in the specified locations, as required by the High Court. A programme of intensive workplace travel planning was proposed, to bring forward compliance on the 2 affected sections of the A45 which included use of cycling and walking networks, car sharing schemes and changes to signing and fleet. These measures were accepted by DEFRA.
- 3.5 On the 5 October 2018 the government published a 'Supplement to the national NO₂ Plan' drawing on the outcome of the authorities' feasibility studies.
- 3.6 Subsequently, a further legally binding direction requiring Solihull Council to take steps to implement these measures as soon as possible and in time to bring forward compliance with legal limits was issued.
- 3.7 At its meeting on 17th January 2019, Cabinet approved the measures to deliver the Ministerial Direction requiring Solihull Council to take steps to implement these measures and also approved the request to The Joint Air Quality Unit for revenue grant funding of £824,373 to enable delivery of the proposed measures within the required timeframe.
- 3.8 The programme of measures is currently being implemented.

CURRENT POSITION

- 3.9 In March 2019 DEFRA published their 2017 national modelling projections for NO₂ and identified that one of the road links where work is already being undertaken to reduce NO₂ as detailed above (Census ID 86030 on the A45), potentially has a longer term exceedance of the legal limit with projected compliance in 2024.
- 3.10 As a result of this, a further legally binding direction has been issued to mandate Solihull Council to develop a plan to bring forward compliance in the shortest time possible. The Direction requires an initial plan by 31st July 2019 and a final plan to be submitted by 30th April 2020.
- 3.11 The allocated funding of £500,000 from JAQU is to enable development of the plan in line with the guidance which will be provided by JAQU, and is to be expended directly

on developing the plan.

- 3.12 Regularly updates are requested by JAQU on the use of this spend, and will include monthly submission of the project delivery and budget tracker to reflect progress.
- 3.13 The work currently being undertaken with workplaces under the existing Ministerial Direction, outlined under section 3.4 above, will continue alongside development of the new plan, and indeed opportunities will be identified to accelerate the workplace travel planning wherever possible.
- 3.14 It should be noted that this work is separate to the delivery of the Solihull Clean Air Strategy 2019 -2024, which was approved by Cabinet in February 2019. It is recognised that there is some overlap on the overall aim to reduce NO₂ levels, and officers will seek to realise mutual benefits wherever possible.

4. What options have been considered and what is the evidence telling us about them?

- 4.1 Work specifications and invitations to tender will be prepared and released to contractors within the West Midlands Shared Professional Services Framework (WMSPS) to enable a mini-competition to be run between all Tier Two suppliers, in line with the Council's procurement rules.

5. Reasons for recommending preferred option

- 5.1 It is proposed that a project manager be recruited to deliver this Ministerial Direction. DEFRA have confirmed that utilising part of the funding to employ staff to develop the plan is acceptable. In addition, external consultants will be contracted to undertake the actual study.
- 5.2 An SMBC officer task and finish group will be established to oversee delivery of the Ministerial Direction. This group will be chaired by the Assistant Director in Public Health to ensure an integrated approach between this and related work streams across the authority.

6. Implications and Considerations

- 6.1 Delivery of key themes in the Council Plan:

How will the options/proposals in this report contribute to the delivery of the key themes in the Council Plan? *(select which themes apply and briefly state how the options / proposals in this report contribute to their delivery):*

- Improve Health and Wellbeing - - Even slight reductions of PM or NO₂ concentrations below air quality standards are likely to bring additional health benefits to the population.
- Managed Growth -

Build Stronger Communities -

Deliver Value -

6.2 Implications for children and young people, vulnerable groups and particular communities:

6.2.1 Air pollution disproportionately affects children, older people and those who live in more deprived and congested areas.

6.3 Consultation and Scrutiny:

6.3.1 N/A

6.4 Financial implications:

6.4.1 The Joint Air Quality Unit is planning to issue a resource grant payment of £500,000 to Solihull Metropolitan Borough Council under Section 31 of the Local Government Act 2003, to develop a local plan to bring forward compliance in the shortest time possible in line with the guidance provided by JAQU.

6.4.2 The funds are to be expended directly on developing the local plan in line with the guidance to be provided.

6.5 Legal implications:

6.5.1 The Environment Act 1995 allows the Secretary of State to give directions to local authorities requiring them to take such steps as is considered appropriate to enable compliance with air quality standards. The Act imposes a legal duty on the Council to comply with the direction.

6.5.2 The payment to any Consultant(s) who support implementation of any part of this programme, will be pursuant to a contract which will have been procured through a mini competitive process in accordance with the Council's procurement rules.

6.6 Risk implications:

6.6.1 Failure to award resources in a timely manner could jeopardise development and submission of the plan. The government has imposed a limited timescale for submission of the final plan.

6.6.2 There have also been a number of High Court judgments brought about by Client Earth, a law firm specialising in environmental matters. Client Earth may wish to pursue individual local authorities perceived as failing to adequately deliver measures to improve air quality.

6.7 Statutory Equality Duty:

6.7.1 Any interventions identified should result in improved air quality for residents. A Fair Treatment Assessment will be carried out prior to commencing any interventions identified.

7. List of appendices referred to

7.1 N/A

8. Background papers used to compile this report

8.1 Supplement to the UK plan for tackling roadside nitrogen dioxide concentrations (October 2018).

9. List of other relevant documents

9.1 N/A

9.2