

Meeting date: 27 July 2021
Report to: CPH Climate Change, Planning and Housing



Subject/report title: DEFRA funding for development of a business case considering interventions to improve air quality
Report from: Assistant Director Highways & Environment
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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

1. Purpose of Report

- 1.1 To provide an update on the second Ministerial Direction which requires Solihull Council to develop a plan to address roadside nitrogen dioxide (NO₂) for a section of the A45, close to the M42 junction 6. This footway has been identified by the Department for the Environment, Food and Rural Affairs (DEFRA) as a receptor, potentially exceeding roadside NO₂ concentration limits as set out in the national air quality objectives.
- 1.2 To seek approval to submit the Full Business Case (FBC) and associated Annex to the government's Joint Air Quality Unit (JAQU) - a joint unit between DEFRA and the Department for Transport.

2. Decision(s) recommended

- 2.1 Cabinet Member is asked to:
- a) Approve that the FBC is completed and submitted to JAQU in accordance with JAQU guidance.
 - b) Within the bid support the inclusion of a £392,795 ask to deliver a package of behaviour change measures.

3. Matters for Consideration

3.1 The response to the second Ministerial Direction was originally led by the Public Health directorate. The matter was reported to the Cabinet meeting on 11 April 2019 and Members resolved:

(i) That Cabinet approves the acceptance of the resource grant payment of £500,000 to Solihull Metropolitan Borough Council (SMBC) 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; and

(ii) That delegated responsibility for ensuring delivery of the Ministerial Direction be given to the Cabinet Member for Environment and Housing.

3.2 During 2019 and 2020 the Council worked with JAQU to comply with the requirements of the second Ministerial Directive and produced the relevant Strategic Outline Case (SOC), Outline Business Case (OBC) and supporting technical evidence, including the air quality dispersion modelling. The OBC's overall objective was to identify the package of measures that will achieve compliance with the annual mean NO₂ EU Limit Value in the **shortest possible time** whilst also supporting the Council's wider vision. The OBC concluded that the closure of the A45 footway, as shown in Figure 1, would achieve this compliance.

Figure 1: Extent of Footway to be Closed



3.3 The evidence was accepted by JAQU on its quality and content and JAQU approved the OBC and agreed that the Council could produce the FBC.

3.4 In early 2021 the responsibility to produce the FBC was handed over from Public Health Directorate to Economy and Infrastructure Directorate. The Council have continued to work closely with JAQU and their advisors Local Partnerships. This has

resulted in the agreement that the FBC (Appendix A) should identify the Highways England M42 Junction 6 scheme as the means to close the A45 footway. Highways England's scheme is currently under construction and the A45 footway (see Figure 1) is expected to be closed in August 2022. This will deliver compliance with the Ministerial Directive.

- 3.5 JAQU also agreed that the Council could submit a bid for funds to deliver a package of travel planning behavioural measures, to realise further positive impacts on air quality in the area. This bid for £392,795, is set out in the Annex (Appendix B) and includes provision for the Council to work with local businesses to provide travel planning services, to enable modal shift, increase/improve active travel (walking and cycling) and provide electric vehicle charging infrastructure.
- 3.6 Since the 2021 changes to the Council's Cabinet Portfolio Holders (CPH), air quality matters became the responsibility of the CPH Climate Change, Planning and Housing Committee.

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

- 4.1 In order to comply with the Ministerial Directive and the agreed Primary Critical Success Factor (PCSF) to bring about compliance in the shortest possible time, a long list of options, which had the potential to improve air quality was considered in the OBC. This process identified approximately 40 interventions ranging from removing public access adjacent to the link in question and/or the construction of air quality barriers to reduce public exposure, to 'softer' behaviour change initiatives, transport planning solutions, and measures which target specific road users only.
- 4.2 Following an analysis of the options against the PCSF criteria three options were identified for further consideration and additional analysis i.e.:
- Footway Closure;
 - Air Quality Barrier; and
 - Low Emission Strategy (Bus Retrofit, Hackney Carriage and Taxi Upgrade Incentives/Licencing Changes and Electric Vehicle Infrastructure)
- 4.3 The Air Quality Barrier could not meet the PCSF, as this depended on the timescales and engineering feasibility of constructing a barrier at the site. A feasibility study revealed a number of challenges associated with the construction a barrier at this location and concluded it could take between two and three years to complete and would come into full operation until 2024.
- 4.4 The impact of a Low Emission Strategy was modelled and this indicated that compliance would not be achieved until 2024.
- 4.5 As neither of these two options would bring about compliance in the shortest possible time, it was agreed with JAQU to cease development of the Air Quality Barrier and

Low Emission Strategy options and instead concentrate on the development of proposals for the closure of the footway.

5. Reasons for recommending preferred option

- 5.1 As the Highways England M42 Junction 6 Improvement Scheme closes the footway, in 2022, this option would bring about compliance in the shortest possible time, and has been agreed with JAQU that this is the preferred option.

6. Implications and Considerations

- 6.1 State how the proposals in this report contribute to the priorities in the [Council Plan](#):

Priority:	Contribution:
<p>Economy:</p> <ol style="list-style-type: none"> 1. Revitalising our towns and local centres. 2. UK Central (UKC) and maximising the opportunities of HS2. 3. Increase the supply of housing, especially affordable and social housing. 	NA
<p>Environment:</p> <ol style="list-style-type: none"> 4. Enhance Solihull's natural environment. 5. Improve Solihull's air quality. 6. Reduce Solihull's net carbon emissions. 	<p>The closure of the A45 footway will remove the receptor where the air quality exceedance has been identified.</p> <p>The delivery of a package of behaviour change measures in the local area, will provide more opportunities to use low carbon transport options, help improve air quality and reduce net carbon emissions.</p>
<p>People and Communities:</p> <ol style="list-style-type: none"> 7. Take action to improve life chances in our most disadvantaged communities. 8. Enable communities to thrive. 9. Sustainable, quality, affordable provision for adults & children with complex needs. 	<p>Air pollution disproportionately affects children, older people and those who live in more deprived and congested areas.</p>

- 6.2 Consultation and Scrutiny:

- 6.2.1 NA

6.3 Financial implications:

6.3.1 The FBC and Annex have been produced following JAQU issuing a resource grant payment of £500,000 to Solihull Metropolitan Borough Council under Section 31 of the Local Government Act 2003.

6.3.2 The funds have been expended directly on developing the FBC and Annex in line with JAQU's guidance. The actual spend, to March 2021, was £348,290 and the forecast spend to the completion of the FBC/Annex is £151,710 (including £40,000 contingency).

6.3.3 The Annex identifies a package of behaviour change measures, estimated to cost £392,795. If the government approves this funding a resource grant payment will be made to Solihull Metropolitan Borough Council under Section 31 of the Local Government Act 2003.

6.4 Legal implications:

6.4.1 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.

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

6.5 Risk implications:

6.5.1 Failure to approve the FBC and Annex in a timely manner could jeopardise submission and delivery of the plan. The government requires the final plan to bring forward compliance in the shortest time possible, in line with the guidance from JAQU.

6.5.2 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.

6.6 Equality implications:

If the FBC and Annex are approved by JAQU and the Council receives funding to deliver the package, a Fair Treatment Assessment will be carried out prior to commencement.

7. List of appendices referred to

7.1 Appendix A – Full Business Case

Appendix B – Annex (Behaviour Change Package)

8. Background papers used to compile this report

Cabinet Report: DEFRA funding for development of a business case considering interventions to improve air quality (11 April 2019)

9. List of other relevant documents

9.1 NA