

Cabinet Meeting on Wednesday 16 December 2020

North Staffordshire Local Air Quality Plan (NSLAQP) – Outline Business Case



Cllr David Williams, Cabinet Member for Highways and Transport said,

“Insert quote agreed with relevant Cabinet Member(s) and Communications Team. Contact Cristian Marcucci or Paula Wright for assistance.”

Report Summary:

The purpose of this report is to obtain Cabinet approval to formally submit an Outline Business Case (OBC) to Government to fund a package of interventions on the highway designed to address illegal exceedances in of Nitrogen Dioxide by 2023. Of the three exceedance locations identified in North Staffordshire, one is along the A53 in Newcastle for which Staffordshire County Council (the County Council) is the responsible Highway Authority. In approving the OBC for submission Cabinet will endorse a Preferred Option solution consisting largely of traffic management interventions and cleaner buses, rather than the alternative of introducing a Charging Clean Air Zone to tackle the problem.

In October 2018, Ministers for the Department for Environment, Food and Rural Affairs (DEFRA) and Department for Transport (DfT) respectively, served a Ministerial Direction on Newcastle under Lyme Borough Council (NULBC) and Stoke on Trent City Council (SOTCC) under the provisions of The Environment Act 1995 (Feasibility study for nitrogen dioxide compliance) (No 2) and (Implementation of measures for nitrogen dioxide compliance) Air Quality Direction 2018 (the “2018 Direction”) and a direction under the Environment Act 1995 (Implementation of measures for nitrogen dioxide compliance) requiring retrofit of buses travelling down the A53 (the “Retrofit Direction”) was served only on NULBC. This work is being co-ordinated by the Governments Joint Air Quality Unit (JAQU).

The 2018 Direction and the Retrofit Direction and associated JAQU guidance required:

NULBC and SOTCC to jointly further investigate EU exceedances of nitrogen dioxide (NO₂) on roads within the Borough and City and identify measures that could bring forward compliance with NO₂ limits as soon as possible **or** review the implementation of a chargeable clean air zone. (referred to as the NSLAQP)

and

NULBC to implement a bus engine retrofit programme to buses that operate on the A53 to be implemented as soon as possible in order to bring forward compliance of NO₂ levels. This does not directly involve the County Council

The County Council as Highway Authority is supporting the project **although is not included within any Ministerial Direction to date.**

The report sets out the work undertaken to develop the NSLAQP, including the consideration and assessment of options and the transport and air quality modelling work undertaken to determine a preferred option, to deliver the primary aim of achieving compliance in the shortest possible time.

A Full Business Case (FBC) submission for the Preferred Option will be required by July 2021 and will then be implemented by the end of 2022 to deliver compliance with legal requirements for controlling nitrogen dioxide concentrations by the year 2023.

Recommendations

I recommend that Cabinet:

- a. Considers the comments received in relation to the North Staffordshire Local Air Quality Plan from Prosperous Staffordshire Select Committee held on November 12th 2020
- b. Approves the OBC for the North Staffordshire Local Air Quality Plan for tackling roadside nitrogen dioxide exceedances, including technical addenda, as contained in Appendices 3 and 4, to be formally submitted to Central Government, in line with the requirements of the 2018 Direction and subsequent amendments by the Secretary of State for the Environment.
- c. Approves the preferred option, as described in Appendix 2, which subject to Government approval of the FBC will be wholly funded by Central Government and implemented in late 2021 and 2022, in order to achieve compliance in 2023 with statutory limits for roadside nitrogen dioxide concentrations
- d. Request a further report from the Cabinet Member for Highways and Transport in June 2021, setting out the FBC, including the detailed costs and proposed funding bid to Central Government.
- e. Delegate authority to the Director of Economy, Infrastructure and Skills to authorise entering into a legal agreement with NULBC and SOTCC to jointly deliver the preferred option in line with the requirements of the 2018 Direction and subsequent amendments by the Secretary of State for the Environment.
- f. Approves the preferred option for implementation by the end of 2022 within Staffordshire, subject to its final approval at Cabinet in June 2021 ahead of submission of the FBC to Central Government and receipt of full funding from Central Government by autumn 2021.

- g. Authorises the Assistant Director for Connectivity and Sustainability to continue partnership working with NULBC and SOTCC to conclude the work on the FBC, recovering any monies expended by the County Council on staff time and consultancy fees as appropriate from NULBC who are the responsible authority for the disbursement of Central Government Grants for this project.

Local Members Interest	
Cllr Trevor Johnson	Newcastle - May Bank and Cross Heath
Cllr Stephen Sweeney	Newcastle – Newcastle South

Cabinet – Wednesday 16 December 2020

North Staffordshire Local Air Quality Plan (NSLAQP) – Outline Business Case

Recommendations of Cllr David Williams Cabinet Member for Highways and Transport.

I recommend that Cabinet:

- a. Considers the comments received in relation to the North Staffordshire Local Air Quality Plan from Prosperous Staffordshire Select Committee held on November 12th 2020
- b. Approves the OBC for the North Staffordshire Local Air Quality Plan for tackling roadside nitrogen dioxide exceedances, including technical addenda, as contained in Appendices 3 and 4, to be formally submitted to Central Government, in line with the requirements of the 2018 Direction and subsequent amendments by the Secretary of State for the Environment
- c. Approves the preferred option, as described in Appendix 2, which subject to Government approval of the FBC will be wholly funded by Central Government and implemented in late 2021 and 2022, in order to achieve compliance in 2023 with statutory limits for roadside nitrogen dioxide concentrations
- d. Request a further report from the Cabinet Member for Highways and Transport in June 2021, setting out the FBC, including the detailed costs and proposed funding bid to Central Government.
- e. Delegate authority to the Director of Economy, Infrastructure and Skills to authorise entering into a legal agreement with NULBC and SOTCC to jointly deliver the preferred option in line with the requirements of the 2018 Direction and subsequent amendments by the Secretary of State for the Environment.
- f. Approves the preferred option for implementation by the end of 2022 within Staffordshire, subject to its final approval at Cabinet in June 2021 ahead of submission of the FBC to Central Government and receipt of full funding from Central Government by autumn 2021.
- g. Authorises the Assistant Director for Connectivity and Sustainability to continue partnership working with NULBC and SOTCC to conclude the work on the FBC, recovering any monies expended by the County Council on staff time and consultancy fees as appropriate from NULBC who are the responsible authority for the disbursement of Central Government Grants for this project.

Report of the Director of Economy, Infrastructure and Skills

Reasons for Recommendations:

1. The County Council as Highway Authority is supporting the project, although not included within any Ministerial Direction to date. Officers from the County Council have been directly involved as members of the project team (the Joint Officer Group – JOG) since early 2019 and the Cabinet Member for Highways and Transport has been a member of the decision making joint Advisory Group (JAG)
2. The background to the development of the NSLAQP, along with a summary of the work undertaken to assess the initial evidence and appraise options, the development of a Preferred Option and the next steps to submit the FBC to Central Government, is provided in Appendix 1.
3. The governance structure for the project as shown in Appendix 1, has supported the project and provided assurance for the development of our preferred option and benchmark CAZ.
4. A description, along with initial draft technical layout plans for various components of the preferred option, is provided in Appendix 2.
5. A politically unapproved version of the OBC was submitted to Central Government on 15 May 2020, in line with the requirements of the 2018 Direction and subsequent requirements of the Parliamentary Under Secretary of State at the Department for Environment, Food and Rural Affairs. The entire OBC is attached in Appendix 3 and includes draft technical layout drawings for components of the preferred option.
6. Feedback from the OBC from the Government's Joint Air Quality Unit is being received and will be incorporated into the FBC which will be submitted to Central Government by July 2021
7. The politically unapproved OBC was required by Central Government to be submitted to the above timescale, despite the local authorities' concerns over the impact of the Coronavirus outbreak at that time. In July 2020, Government issued a requirement for the local authorities to undertake a sensitivity analysis of the preferred option to the likely impacts of Coronavirus on the local economy, and hence travel patterns and vehicle emissions. This work was undertaken between July and September 2020 and the results of this analysis are summarised in Appendix 4. In issuing this requirement, Central Government advised that the required year for Stoke-on-Trent and Newcastle-under-Lyme to achieve compliance with statutory limits for roadside NO₂ concentrations had been changed from 2022 to 2023, to take account of the impacts of Coronavirus both on the local economy and also on the local authorities' ability to complete the feasibility study caused by conflicting service pressures.
8. Various factors will affect vehicle emissions and hence roadside NO₂ concentrations, including

- a. A slower rate at which individuals and businesses renew their vehicles, meaning that older (and more polluting vehicles) stay in use for longer than was originally assumed.
 - b. The acceleration of the trend to more flexible working patterns in particular homeworking and flexible start/finish times.
 - c. The propensity of people to use public transport, especially for those who use public transport on a discretionary basis and may choose to avoid public transport due to fears about social distancing.
 - d. The impact of Coronavirus on people's awareness of needing to improve personal health and fitness levels, resulting in a willingness to walk and cycle more, especially for shorter journeys.
 - e. The impact of Coronavirus on the local economy, including impacts on unemployment and changing demand in various sectors
9. The project team considered which variables would be relevant to North Staffordshire for Coronavirus sensitivity tests taking into account the nature of bus usage in the area and the historic traffic impacts of cycle schemes. Economic recovery policy responses by the three Local Authorities were also taken into consideration. JAQU mandated that a one year delay to fleet renewal was modelled. The content of the sensitivity tests was ratified by JAG. The necessary timing of this work meant that the project was unable to wait until the empirical evidence of the impact of Coronavirus is available.
 10. The analysis has shown that whilst fleet renewal and economic downturn have negative impacts on vehicle emissions, the additional year to deliver compliance provides time for 'natural fleet replacement' to counter these negative impacts. The other listed factors have been found to have small impacts within the period that the study is seeking to deliver compliance with the statutory limit for roadside NO₂ concentrations. However, these small impacts do not affect the overall viability of the preferred option to achieve the primary aim. This means that the preferred option is still able to deliver the primary aim of achieving compliance with the requirements of the 2018 Direction.
 11. Central Government is reviewing our conclusions and has confirmed that the study can progress towards completion of the FBC by July 2021. Subject to Cabinet approval of the OBC, it is planned to progress the completion and submission of the FBC by July 2021, following its review by Cabinet.
 12. Assuming Government then approve the FBC and issue the funding and a further Ministerial Direction for implementation, contractors will be appointed to commence delivery of the preferred option, completed by the end of 2022 and thereby achieving compliance in 2023 with the statutory limit for nitrogen dioxide concentrations.
 13. This report on the NSLAQP has been presented to Prosperous Staffordshire Select Committee 12th November 2020. SOTCC and NULBC are also presenting the NSLAQP to their respective Overview or Scrutiny committees on the same date. Cabinet are asked to consider the comments received from Prosperous Staffordshire Select Committee, which are attached in Appendix 5.

14. A report on the North Staffordshire Air Quality Plan was taken to Informal Cabinet on 6th June 2019. A background report was presented to Prosperous Staffordshire Select Committee Members in February 2020 through the Chair.

Alternative Options Considered

15. A considerable number of options have been reviewed and tested, as detailed in Appendix 1, in order to determine the 'preferred option' as detailed in Appendix 2.
16. The OBC as attached in Appendix 3, considered the options tested alongside the comparison of a benchmark Clean Air Zone – Type D as required by JAQU guidance.
17. The conclusion of the OBC is that the air quality standard can be achieved in the shortest possible time through the completion of the preferred option.
18. The 2018 Direction places a statutory duty upon SOTCC and NULBC to undertake a feasibility study and identify a preferred option, which must be assessed against a benchmark clean air zone. The County Council is implicated through being the responsible Highway Authority for Newcastle
19. A further Ministerial Direction will be issued after submission of the FBC, legally obliging all **three** local authorities to fully implement the preferred option.
20. At this stage in the study, the three local authorities have the options to:
 - a. Approve the OBC for formal submission to Central Government. This will enable the local authorities to progress the preferred option for inclusion in the FBC, and allow funding to be secured for its delivery in late 2021 and 2022, which will deliver compliance with the requirements of the 2018 Direction and achieve compliance in 2023 with the statutory limit for nitrogen dioxide concentrations. **This is the recommended option.**

or

- b. Not approve the OBC for formal submission to Central Government. This option will result in Central Government reviewing the local authorities' failure to respond to the requirements of the 2018 Direction and risks the imposition of a further Ministerial Direction requiring the implementation of a charging Clean Air Zone across parts or all the City of Stoke-on-Trent and Newcastle-under-Lyme.

Legal Implications

21. The 2018 Direction was issued to SOTCC and NULBC on 4 October 2018. This imposes a legal requirement on the two authorities to undertake a feasibility study in accordance with HM Treasury's Green Book approach, to identify the option(s) which will deliver compliance with legal limits for NO₂ in the shortest time possible.
22. To ensure that air quality is improved for Newcastle under Lyme residents supporting their health and wellbeing, under Part IV of the Environment Act 1995,

NULBC has a legal duty to review and assess air quality in its area and to report against objectives for specified pollutants of concern, to DEFRA. Air Quality Objectives are defined in European Directives that are incorporated within UK air quality strategies and regulations, most recently, the National Air Quality Plan published in July 2017.

23. The 2018 Direction served on NULBC and SOTCC is legally binding. Failure to comply with the 2018 Direction may result in judicial review proceedings being brought against that NULBC and SOTCC. Any such proceedings could result in adverse costs awards being made against NULBC and SOTCC.
24. Following Central Government approval of the FBC expected to be in August/September 2021, a further Ministerial Direction will be issued by Central Government, using the power conferred by section 85(5) of the Environment Act 1995, imposing a legal duty on the local authorities to implement the NSLAQP for NO₂ compliance. This Ministerial Direction is expected to include the County Council
25. Implementation of the preferred option will require the activities of all three local authorities to be coordinated via a formal legal agreement. It has been agreed that the County Council Legal Team will lead on the preparation of this document. The legal agreement will detail the responsibilities and obligations of each local authority in respect of implementing the preferred option. A fee proposal for this work should be covered by the Central Government grant as detailed below.

Resource and Value for Money Implications

26. The preparation of the NSLAQP is being carried out in-house, working jointly with officers from NULBC and SOTCC plus transport, air quality and project management consultancy support
27. The costs associated with developing the OBC and FBC and subsequent implementation, monitoring and evaluation of the preferred option should be met through Central Government grants (Implementation Fund), administered by JAQU. NULBC are the responsible authority for disbursement of these monies. The County Council costs claimed from NULBC have to date been fully recovered. A Strategic Finance Business Partner from the County Council's Finance Team is involved in the project team.
28. There has been, and will continue to be, a requirement to procure additional grants to fund the completion of specific tasks, including the appointment of contractors to implement the preferred option and specialist consultants to manage its delivery and also to monitor and evaluate the impacts, in order to demonstrate to Central Government that the requirements of the 2018 Direction have been met.
29. NULBC have procured consultants Sweco (transport consultants) and Ricardo (air quality consultants) to undertake technical work supporting the OBC, through an OJEU compliant framework. These consultants have been invited to tender for the FBC work. Amey have been commissioned through the County Council's Infrastructure + contract to produce preliminary scheme designs and cost estimates

within Staffordshire for the OBC. The Financial and Commercial Cases of the OBC articulate that they will undertake the detailed design work and implement interventions that form part of the preferred option in Newcastle and detailed in the FBC. Other works within Staffordshire will be delivered by contractors on existing frameworks. The County Council's Procurement team will be necessarily involved to competitively source elements like enforcement cameras and IT equipment and software. Enforcement of the A53 bus gate will be undertaken via the existing enforcement arrangements which are shared with SOTCC. Additional staff required should be covered by the Central Government grant.

30. Value for Money is currently demonstrated in the OBC which has been produced to Treasury Green Book Guidance and demonstrates that the preferred option is the best value scheme. An FBC will be developed from this, along the same principles and reviewed by JAQU.

Key Risks

31. A comprehensive risk assessment has been undertaken as part of the OBC development, which has identified the following key risks:
 - a. The uncertainty associated with the Coronavirus pandemic, although a sensitivity analysis has been completed which demonstrates that the Coronavirus linked factors that may affect travel patterns, and hence vehicle emissions and pollution, are relatively small and counterbalance each other.
 - b. Highways England's support for the preferred option, which is critical given the need to place signage on their network and the importance of the A500 and A50 in the local road network. These roads form part of the national Strategic Road Network ("SRN") and are managed by Highways England on behalf of the DfT. The preferred option includes measures which help to mitigate the impacts of the preferred option on the SRN.
32. The Management Case in the OBC (within Appendix 3) details the risk management strategy in place to minimise the impact of risks whilst ensuring potential opportunities are maximised. It closely links to the monitoring and evaluation and benefits realisation strategies that will be updated and enhanced to reflect the uncertainty of Coronavirus.

Community Impact Assessment (CIA)

33. A Community Impact Assessment has been produced based upon the analysis undertaken as part of the OBC in Appendix 3 for the preferred option and the benchmark Clean Air Zone. The checklists and executive summaries are attached.

Public Sector Equality Duty

34. The preferred option does not disproportionately impact groups with protected characteristics.

35. The CAZ scheme disproportionately negatively affects disabled people and males in terms of payment of the CAZ charge, disabled people and women in terms of taxi usage, young people in terms of bus usage and children in terms of road links with the largest increases in traffic flow.

Environment

36. The preferred option has a negative impact on climate change as it increases carbon emissions by 13,324 tonnes, if the scheme operates for 10 years. However, it is very unlikely that it would be in place for that long, and it could be withdrawn after 5-6 years.
37. The increase in CO₂ for the preferred option reflects the increase in travel distance as some vehicle reroute to avoid the bus gates. The improvement under the CAZ scenario mostly reflects vehicle upgrades to avoid the CAZ charge.
38. The CAZ will bring all road links into compliance with the EU directive limit of 40µgm³ and provides a saving of 555 tonnes per year of NO_x and 35 tonnes per year saving of PM_{2.5}. The preferred option provides a saving of 101 tonnes per year of NO_x and 3 tonnes per year of PM_{2.5}. If the CAZ operates for 10 years, then the scheme will result in a reduction of 194,854 tonnes of CO₂ emissions due to vehicle upgrades and amended journeys as a response to the CAZ charge.

Economy / Transport

39. The preferred option will negatively affect people in terms of increasing vehicle operating costs fuel costs and travel time at certain times and for certain movements. It has the potential to be seen as restricting traffic movements and therefore the ability to conduct business. However, the measures improve local air quality which benefits the local area.
40. Drivers of non-compliant vehicles will be subject to a daily charge to enter the CAZ boundary. This can be avoided by upgrading their vehicle, amending their journey or cancelling their journey. The impact will be felt by communities and businesses.
41. Operators with non-compliant HGVs will have to bear the costs of CAZ charges or upgrade vehicles. Greater impacts forecast to be felt by smaller companies (freight in particular), bus and taxi operators.

List of Background Documents/Appendices:

Appendix 1 - Summary of the feasibility study

Appendix 2 - The preferred option

Appendix 3 - NSLAQP Outline Business Case (Background Documents)

Appendix 4 - NSLAQP Covid-19 sensitivity test results

Appendix 5 - Comments received from Prosperous Staffordshire Select Committee

12th November 2020

Contact Details

Assistant Director: Clive Thomson, Assistant Director for Connectivity and Sustainability

Report Author: Nick Dawson
Job Title: Connectivity Strategy Manager
Telephone No.: 01785 276629
E-Mail Address: nick.dawson@staffordshire.gov.uk