

Report of Director of Resources and Housing and Director of City Development

Report to Executive Board

Date: 21st November 2018

Subject: Improving air quality within the city

Are specific electoral Wards affected? If relevant, name(s) of Ward(s): All Wards	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Is the decision eligible for Call-In?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

1. The Council is under a ministerial direction to provide a Full Business Case (FBC) to government which sets out detailed proposals for a scheme to deliver compliance with the legal limit value for nitrogen dioxide in the shortest possible time (subject to its legal and statutory obligations and in accordance with public law principles).
2. Last month Executive Board approved the proposal for a Clean Air Zone (CAZ), category B with additional measures, that will impose charges on those buses, coaches, Heavy Goods Vehicles (HGVs) as well as taxi and private hire vehicles which are not compliant with the required emission standards.
3. The council continues to work with the Government to secure the required support packages to mitigate the economic impact of the Scheme.
4. In parallel the council has continued to work with Highways England to secure additional investment in the city to deliver the Regional Centre of Excellence for the delivery of electric vans to complement the clean air zone.
5. The report sets out the next step for how the Full Business Case will be practically implemented alongside the Leeds Clean Air Zone Charging Order ("Charging Order")

and recommends that the Executive Make the Order for approval by the Secretary of State before the go live date of January 2020.

Recommendations

6. The Executive Board is recommended to:

- Make the Leeds Clean Air Zone Charging order under the Transport Act 2000 as attached at appendix A to take effect on 6th January 2020;
- Submit the Charging Order to the Secretary of State for comment alongside the Full Business Case;
- Note that the Director of Resources and Housing and the Director of City Development will be responsible for the implementation of Leeds Clean Air Zone Charging Order, subject to Secretary of State formal approval of the Full Business Case and their comment on the Charging Order;
- Note that the Director of City Development will be permitted to make any non-material amendments to the Leeds Clean Air Charging Zone prior to the implementation date of January 2020 in accordance with the existing delegation relating to Highways and Transportation.

1 Purpose of this report

- 1.1 The report to Executive Board will:
- 1.2 Provide a summary of the Leeds Clean Air Zone Charging Order (“Charging Order”) so that the Executive Board can formally Make the Order;
- 1.3 Provide detail of the proposed road signage that is to be erected within Leeds for the Clean Air Zone (“CAZ”);
- 1.4 Provide an update on the progress made with the camera procurement.

2 Background information

- 2.1 NO₂ concentrations at some specific locations across Leeds are exceeding the annual average limit of 40 µg/m³, making Leeds non-compliant with the UK objectives. As a result the Council received a Ministerial Direction that has placed it under a legal obligation to submit a full business case, setting out proposals for a scheme to achieve compliance in the shortest possible time, consistent with other legal obligations.
- 2.2 In October 2018 a report was brought to Executive Board that provided an overview of the statutory consultation process undertaken on the proposed CAZ B and the key findings. It also provided details of the final CAZ proposal for the City of Leeds.
- 2.3 The CAZ will improve public health by addressing the issue of air quality in the city. Both long- and short-term exposure to air pollution are known to adversely affect health. Short-term exposure (over hours or days) to elevated levels of air pollution can cause a range of negative effects including exacerbation of asthma, effects on lung function, increases in hospital admissions and mortality. Epidemiological studies have shown that long-term exposure (over several years) reduces life-expectancy, mainly due to increased risk of mortality from cardiovascular and respiratory causes and from lung cancer.¹

3 Main issues

- 3.1 The Charging Order is an order made under the Transport Act 2000 that allows the council to implement a Clean Air Zone. The Charging Order has been carefully drafted in accordance with the terms of the Final Business Case and the requirements of the Act and is found at appendix A. It details:
 - **The boundary:** A boundary has been provided for the initial go-live date of 6th January 2020 that excludes (until 2025) 3 industrial areas of the city that comply with the industrial exclusion conditions.
 - **The scope of the vehicles included within the CAZ:** In summary the proposed CAZ B will impose charges on those buses, coaches, Heavy Goods Vehicles (HGVs) as well as taxi and private hire vehicles which are not compliant with the required emission standards.
 - **The required emissions standards.**

¹ National Institute for Health and Care Excellence (NICE) - Expert testimony from Public Health England to inform NICE ‘Air pollution: outdoor air quality and health’ guideline 2017 <https://www.nice.org.uk/guidance/ng70>

- **The charges for non-compliant vehicles:**

Category	Charges
Buses, coaches & HGVs	£50 per day
	£12.50 per day (non-Leeds licensed drivers)
Taxi & Private Hire Vehicles	£12.50 per day or £50 per week (Leeds licensed drivers only)

- **The penalty charges for non-payment:** A penalty charge of £120 will be imposed by the Scheme for non-payment of a road user charge. This penalty charge will be reduced to £60 if the charge is paid within 14 days and increased to £180 if not paid within 28 days.
- **The exemptions and sunset periods:** The exemptions are laid out in detail in Annex 2 of Appendix A and the sunset periods are detailed in Annex 4 of Appendix A.
- **The mechanisms for payment:** The charging order has been drafted in advance of the finalisation by government of the national payment portal which will govern the payment process and which is still under development. As such the Charging Order retains some discretion on exactly how payment provisions will operate to allow for the requirements of the payment portal when finalised.
- **The spending objectives:** In the event that net proceeds are generated from the Scheme, these proceeds would be spent on the following objectives:
 - offering further support to non-compliant vehicles to upgrade or retrofit their vehicles to meet the standards required by the CAZ
 - supporting green infrastructure (planting of trees, bushes etc. to support the absorption of pollutants) along the most polluted roads where public exposure is the highest
 - supporting active transport and incentivising public transport.

3.2 The Charging Order may need to be varied as greater detail becomes available from government on the national payment portal. However, these changes are envisaged to be minor and will only impact on specific clauses of the Charging Order. As a result it is proposed that these changes (that will be immaterial in nature) can be approved by the Director of City Development without the need to revert to Executive Board.

- 3.3 In line with Department of Transport guidance the scheme will use a number of signs to provide advance warning, signal the start and end of the CAZ boundary and signal where a camera is located. Examples of the signage is included below.



- 3.4 In the lead up to the “go-live” date there will be a comprehensive communications campaign to ensure that impacted parties are aware of the Scheme and can access further information.
- 3.5 In accordance with the guidance for the business case, the council has undertaken its camera procurement to allow firm costings to be included within its financial business case. The council received 6 bids that have been evaluated by a cross council team with external technical support.
- 3.6 The bidders will be notified of the outcome shortly but a contract cannot be awarded until government funding has been secured.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 We have undertaken a comprehensive consultation process over two phases. The reports from both phases as well as a document that sets out the views expressed in the consultation events and letters can be found at <https://cleanairleeds.co.uk/clean-air-zone>.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 The equality impact assessment is attached as appendix B.

4.3 Council policies and the Best Council Plan

- 4.3.1 The importance of air quality as an issue is reflected in the Council's vision under our Best Council Plan. Our vision is for Leeds to be a healthy city in which to live, work and visit and we are working with partners to reduce emissions which will bring about health and wellbeing benefits including reducing premature deaths, improving health, promoting physical activity and reducing obesity levels.
- 4.3.2 The Leeds Public Transport Improvement Programme is working to make improvements to the bus and rail networks which will enable reductions in congestion and greater modal shift, supporting a reduction in emissions.
- 4.3.3 We are raising general health and environmental standards across the city through the promotion of walking and cycling.

4.4 Resources and value for money

- 4.4.1 The camera procurement has now been completed and this has allowed the council to finalise its implementation costs that form part of the full business case. The infrastructure costs have reduced significantly against the budgeted costs and the operational costs are in line with our budget expectations.
- 4.4.2 All of the capital costs will be funded by external grant from the Clean Air Implementation fund.

4.5 Legal Implications, Access to Information and Call In

- 4.5.1 The Charging Order has been drafted in accordance with the legal requirements set out in the Transport Act 2000. The Charging Order is the legal instrument that practically implements the Full Business Case and sets out the requirements for road users who are subject to charging in the CAZ as well as a plan for applying any the net proceeds and is set out in full at Appendix 1.
- 4.5.2 The Air Quality Standards Regulations 2010 ("the Regulations) have brought Directive 2008/50/EC of the European Parliament and of the Council on Ambient Air Quality and Cleaner Air for Europe in to UK Law. Regulation 26 of the Regulations requires the Secretary of State to draw up and implement an air quality plan to achieve the relevant limit or target value of pollutants in ambient air within the shortest possible time.
- 4.5.3 The Government's Air Quality Plan (the UK Plan for Tackling Roadside Nitrogen Dioxide Concentration) was published in July 2017 and requires Local Authorities to set out their initial plans for improving air quality by the end of October 2017 and their final plan by the summer of 2018.
- 4.5.4 In meeting this requirement the Government issued a Ministerial Direction in December 2017 for Leeds City Council.
- 4.5.5 It is the Charging Order together with the Full Business Case that will operate collectively in seeking to deliver compliance with the legal limit value for nitrogen dioxide in the shortest possible time whilst complying with the Council's other legal and statutory obligations and in accordance with public law principles.

4.6 Risk Management

- 4.6.1 The Council has developed a scheme that aims to delivers compliance with the legal limit value for nitrogen dioxide in the shortest possible time whilst complying with its other legal and statutory obligations and in accordance with public law principles. It has also sought to mitigate the economic impacts with the support packages that it has developed. However, without adequate financial support from

Government, the impact on industry would be unsustainable and there would be an impact on the compliance levels forecast as these are reliant on adequate support being provided.

- 4.6.2 The Council has carefully chosen to formally make the order now rather than after submitting the order to the Secretary of State to ensure the process of implementing the order is as rapid as possible as well as providing the impacted sectors with the detail that they require when making future vehicle purchasing decisions, having regard to the Council's duty under the Ministerial Direction. However, there is the risk that the government will have comments on the Full Business Case that will require amendments to the Charging Order or that developments in the national payment portal will require such amendments and depending on the materiality of those changes we will have to return to Executive Board for an amended Charging Order to be made.
- 4.6.3 The Charging Order envisages that the scheme will go live on 6th January 2020. However, the council will be able to revoke or postpone that date if the funding approval from government is not timely and creates a delay that would be untenable for the council in terms of delivery of the scheme.
- 4.6.4 In October's reports the key risks of the scheme were listed in detail. The risks more directly associated with making the Charging Order are detailed again here for ease of reference.
- 4.6.5 It is fully acknowledged that there is a high potential of challenges to the proposals for the Clean Air Charging Zone in Leeds, these could be from either environmental interest groups who do not consider that the proposals go far enough, from specific individuals or groups that may be adversely affected by the proposals. As this is the first scheme of its kind being advanced by the Council at this early stage it is difficult to predict the nature of these challenges. However, the Council considers that these proposals strike the right balance consistent with its legal and statutory obligations and in accordance with public law principles.

5 Conclusions

- 5.1 The council has developed a scheme that aims to deliver compliance with the legal limit value for nitrogen dioxide in the shortest possible time. To ensure the Scheme is delivered in the shortest possible time the Charging Order is being made immediately to minimize the risk of delay.
- 5.2 The CAZ is a critical part of the council's plans to achieve compliance with its legal obligations but there are a number of complementary streams that will support further improvement in air quality citywide such as the Local Public Transport Investment Programme as well as the investment in anti-idling and electric vehicle charging through the early measures funding received from government.

6 Recommendations

- 6.1 The Executive Board is recommended to:
- Make the Leeds Clean Air Zone Charging order under the Transport Act 2000 as attached at appendix A to take effect on 6th January 2020;

- Submit the Charging Order to the Secretary of State for comment alongside the Full Business Case;
- Note that the Director of Resources and Housing and the Director of City Development will be responsible for the implementation of Leeds Clean Air Zone Charging Order, subject to Secretary of State formal approval of the Full Business Case and their comment on the Charging Order;
- Note that the Director of City Development will be permitted to make any non-material amendments to the Leeds Clean Air Charging Zone prior to the implementation date of January 2020 in accordance with the existing delegation relating to Highways and Transportation.

7 Background documents²

7.1 None

² The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.