

**Committee Name and Date of Committee Meeting**

Cabinet – 14 February 2022

**Report Title**

Improving Air Quality in Rotherham – Submission of Full Business Case

**Is this a Key Decision and has it been included on the Forward Plan?**

Yes

**Strategic Director Approving Submission of the Report**

Paul Woodcock, Strategic Director of Regeneration and Environment

**Report Author(s)**

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**Ward(s) Affected**

Borough-Wide

**Report Summary**

This report provides an update on progress towards approval of the Full Business Case (FBC) for the jointly mandated Sheffield and Rotherham Joint Air Quality Improvement Plan. The Plan enables the implementation of all air quality improvements identified over the last 4 years to achieve compliance with government's National Air Quality Plan standards. Cabinet approved a number of specific Rotherham schemes in March 2021, and these are now progressing to implementation. The proposal is for Cabinet to delegate authority to the Strategic Director, Regeneration and Environment, in consultation with the Cabinet Member for Jobs and the Local Economy and the Cabinet Member for Transport and Environment so that they are able to agree to the submission of the FBC to government which is being compiled by Sheffield City Council as the lead partner for the scheme.

**Recommendations**

1. That Cabinet delegate responsibility to the Strategic Director, Regeneration and Environment, in consultation with the Cabinet Member for Jobs and the Local Economy and the Cabinet Member for Transport and Environment, to jointly submit, with Sheffield City Council, the Rotherham and Sheffield Full Business Case to Government by 31<sup>st</sup> March 2022.
2. That Cabinet delegate responsibility to the Strategic Director, Regeneration and Environment, in consultation with the Cabinet Member for Jobs and the

Local Economy and the Cabinet Member for Transport and Environment to commence procurement for any necessary infrastructure, goods and services to implement the mitigating measures.

3. That Cabinet agree to receive a further report on Rotherham's clean air proposals should Government require significant changes once Government has assessed the proposals in the Full Business Case.

### **List of Appendices Included**

Appendix 1 Equalities Assessment

Appendix 2 Carbon Impact Assessment

### **Background Papers**

- "SCC/RMBC Clean Air Zone Programme - Approval to Deliver Rotherham's Air Quality Measures Projects" – Cabinet report, 22<sup>nd</sup> March 2021
- "Clean Air Zone Update" – Improving Places Select Commission report, 2<sup>nd</sup> February 2021
- Minutes of Improving Places Select Commission, 6<sup>th</sup> June 2019
- "Improving Air Quality in Rotherham" – Cabinet report, 17<sup>th</sup> December 2018

### **Consideration by any other Council Committee, Scrutiny or Advisory Panel**

Improving Lives Select Commission – 10 March 2020

### **Council Approval Required**

No

### **Exempt from the Press and Public**

No

## Improving Air Quality in Rotherham – Submission of Full Business Case

### 1. Background

- 1.1 Air quality is a major issue of growing interest and significance at a national and international level. There is categorical evidence that long-term exposure to everyday air pollutants contributes to cardiovascular disease (including heart diseases and stroke), lung cancer, and respiratory disease (including asthma and chronic bronchitis).
- 1.2 The Department for Environment, Food and Rural Affairs (DEFRA) published its final National Air Quality Plan in July 2017, in response to a High Court ruling in December 2016. This Plan details how compliance with the European Union (EU) Ambient Air Quality Directive will be delivered in the United Kingdom, through focussing on improving air quality in a number of Local Authority areas. Those Local Authorities that have areas that are not compliant with the Directive were identified through national air quality modelling. 28 Local Authorities were included ('mandated') in the plan, including Rotherham Metropolitan Borough Council (RMBC) and Sheffield City Council (SCC). RMBC and SCC were 'jointly mandated' on the basis that the Parkway in both Sheffield and Rotherham was identified as being non-compliant.
- 1.3 Both Local Authorities were therefore required to work together, supported by DEFRA's Joint Air Quality Unit (JAQU), to identify options to reduce levels of Nitrogen Dioxide below the legal limit of 40µg per cubic metre of air, on an annual average, in the 'shortest possible time'. The two Councils were required to undertake local feasibility studies to identify the measures that would reduce levels of nitrogen within the 'shortest possible time'. The Councils were required by DEFRA to include options for charging polluting vehicles, where this would deliver compliance in the shortest possible time.
- 1.4 A report to Cabinet in December 2018 outlined the outcome of these feasibility studies. It concluded that a charging zone is not required in Rotherham for the Borough to achieve compliance. It did however identify measures that will need to be taken at four specific locations across Rotherham to achieve compliance. The proposals in Rotherham focussed on changes to speed limits on the Rotherham section of the Parkway, improvements to the Rotherham bus fleet and the routing of buses on Rawmarsh Hill and Fitzwilliam Road, and the restriction of HGVs on Wortley Road. These options were proposed to be accompanied by a number of additional measures, which aim to support businesses to improve their fleet and improve air quality, such as targeted support to upgrade vehicles.
- 1.5 Cabinet approved the proposed mitigating measures and agreed that consultation on the measures could begin in early 2019. Cabinet also agreed that following that a further report outlining the final proposed measures and the Full Business Case for submission to government should be presented in 2019.

- 1.6 In line with the recommendations in the Cabinet report described above, and within the timescale set out within the Ministerial Direction to RMBC and SCC, the Outline Business Case for funding was submitted to Government in December 2018. It was agreed by Government in February 2020.
- 1.7 In March 2021 a further report was presented to Cabinet outlining that an initial funding allocation had been confirmed by Government at the outline business case (OBC) stage which was sufficient for the Council to deliver three key highway infrastructure projects, referred to below, to reduce NO<sub>2</sub> levels in the shortest possible timescale and to sustain compliance beyond that point. The results of the public consultation which took place in 2019 were also described in detail in that report. Cabinet approved the commencement of the three projects and for them to be added to the Council's approved capital programme.
- 1.8 Since then, work has commenced to deliver the schemes with an update on each of the three projects as follows:

#### **Sheffield Parkway 50mph speed limit**

- 1.9 The proposed reduced speed limit will be subject to statutory advertisement in the first half of 2022, with implementation upon completion of the Parkway improvement scheme in November 2022. A temporary 50mph speed limit will remain in place for the duration of construction of the improvement scheme.

#### **Wortley Road North-West-Bound HGV Prohibition**

- 1.10 The goods vehicle prohibition is expected to go live in February 2022.

#### **Rawmarsh Hill Bus Priority and Routing Changes**

- 1.11 Construction of the improvement junction at Rawmarsh Hill and Bellows Road commenced in early 2022, with completion anticipated late Spring / early Summer.
- 1.12 It should be noted that JAQU require any assessment of Clean Air Plan measures to assume that there have been no cuts to bus services as a consequence of changed demand during or following the COVID-19 pandemic.

## **2. Key Issues**

- 2.1 Cabinet approved the commencement of the three schemes above as they are being delivered as standalone schemes providing benefits in improving the local environment. This approval was also gained on the basis of the risk of clawback being very low, on the basis of the assurances provided by government at the time.
- 2.2 However, in approving these three schemes Cabinet did not commit to the CAZ programme as a whole. As outlined in the report in March 2021, a

separate decision is now required to seek approval for the submission of the Full Business Case (FBC) to government.

- 2.3 Whilst the OBC was agreed by Government in February 2020, the Covid-19 pandemic has meant that the submission of the FBC has been delayed. Air quality changed significantly and unexpectedly over the last eighteen months, with Rotherham and Sheffield seeing reductions in air pollution of up to 33% in January to August of 2021 compared to the same period in 2019.
- 2.4 Given that, it was recognised that the situation across Rotherham and Sheffield, was very different to the one in which the proposals were originally developed, albeit potentially not a permanent change. Whilst both Councils remain under legal direction to implement measures to achieve compliance with national air quality legislation in 'the shortest possible time', it was incumbent upon RMBC and SCC to ensure that the proposals took account of the possible impacts of COVID-19 on businesses, transport, and air quality, in order to assess whether changes to the proposals should be made, or if the same actions are still required.
- 2.5 With that in mind a review has taken place in order to address a number of areas, including:
- Whether there are non-charging options for Sheffield that might now contribute towards compliance?
  - If a charging zone is still necessary for Sheffield, what form should that take?
  - Whether the rate of vehicle improvements and upgrades has changed since it was last analysed, i.e. is the vehicle fleet getting cleaner more quickly or slowly than predicted?
  - Will reductions in traffic and pollution resulting from Covid-19 remain over the medium/longer term?
- 2.6 A number of scenarios have therefore been modelled in order to test the proposals against observed demand for travel and impacts on air quality over the last year to ensure that the FBC fully reflects any permanent changes in travel behaviour. This work has now concluded.
- 2.7 The review found that, in the absence of intervention, the same areas of exceedance are forecast in Rotherham as was found at Outline Business Case. It was also found that the preferred options, as developed, remain forecast to deliver air quality within limit values in Rotherham, as summarised in the table below:

## Forecast concentrations of NO<sub>2</sub> on relevant streets in Rotherham in 2022

Street	Annual average concentration of NO <sub>2</sub> (µg·m <sup>-3</sup> )	
	Without intervention	With preferred option
A.633 Rawmarsh Hill	41	39
A.629 Wortley Road	42	40
A.630 Fitzwilliam Road	41	39
A.630 Sheffield Parkway	43	40

*Annual average concentrations of 40 µg·m<sup>-3</sup> or less are within statutory limit value.*

- 2.8 The figure given for Sheffield Parkway relates to a part of the route not considered to have public access, and so not valid for reporting air quality compliance in respect of the Regulations. At the one location on Sheffield Parkway with public access, levels of NO<sub>2</sub> are forecast to be much lower, at 30 µg·m<sup>-3</sup> with and without intervention.
- 2.9 Notwithstanding the above, the proposed 50mph speed limit, and the proposals in Sheffield, will bring all links on Sheffield Parkway in Rotherham within the limit value of 40µg·m<sup>-3</sup>. It is therefore proposed to introduce the revised speed limit, to remove risk of challenge regarding public access, and to put compliance on this link beyond challenge or doubt.
- 2.10 It is clear from this work that the proposals for Rotherham are therefore still necessary for Rotherham to reach compliance and would also deliver genuine benefit to our communities. These proposals will therefore form the basis of the Rotherham submission within the overall RMBC and SCC Full Business Case to government.
- 2.11 SCC have undertaken a similar review which is now complete. SCC's Cooperative Executive made a decision on 26 October 2021 to:
- Approve acceptance of the grant funding of £23,967,436 awarded in March 2020 from the Department for Environment Food & Rural Affairs (DEFRA) and the Department for Transport to enable the Council to comply with its statutory duty through the measures described in this report.
  - Approve the launch of further consultation on the Sheffield aspects of the Clean Air Plan in November 2021. This consultation commenced on 22<sup>nd</sup> November and closed on 17<sup>th</sup> December 2021.
  - Delegate authority to the Executive Director Place in consultation with the Leader of the Council and the Executive Member for Climate Change, Environment and Transport to submit to Government a Full Business Case to deliver a Category C Charging Zone.
- 2.12 Given the consultation above was Sheffield specific, it does not affect the proposals for Rotherham. The consultation covered the specific proposals in

Sheffield including the charging zone itself and financial support for business affected by the charging zone, including those based in Rotherham. The final proposals include a "Category C" Clean Air Zone covering the Sheffield inner ring road and all areas within it, in order to achieve compliant levels of Air Quality in the shortest possible time. This will see buses, coaches, vans/ LGVs and lorries/ HGVs charged for entering the zone if they are not a minimum of Euro 6 diesel or Euro 4 petrol standard. The proposal also includes financial support to:

- Private hire and hackney carriages operators and drivers
- Light Goods and Heavy Goods Vehicle operators
- Coach and non-scheduled bus service operators
- Scheduled bus service operators

### **3. Options considered and recommended proposal**

- 3.1 The submission of a Full Business Case to Government is required in order to fulfil the legal mandate and the Ministerial Direction. No other options have therefore been considered.
- 3.2 The full options considered in the development of the overall FBC proposals were outlined in the Cabinet report on 17 December 2018.

### **4. Consultation on proposal**

- 4.1 In line with the recommendations to Cabinet in December 2018, a public consultation and engagement with the Improving Places Select Commission, on the above proposals took place between April and September 2019, the results of which were reported to Cabinet in March 2021.
- 4.2 Further local and detailed consultation on the individual schemes has taken place as part of the commencement of the works and in line with the standard consultation processes for major Transportation projects and the making of Traffic Regulation Orders (TROs). The results of these consultations have been considered in reports specific to those measures, which have resulted in decisions to progress. The exception to this is the Sheffield Parkway 50mph speed limit, which is to be subject to statutory consultation during 2022.

### **5. Timetable and Accountability for Implementing this Decision**

- 5.1 As approved this will enable Rotherham to achieve NO<sub>2</sub> compliance in 2022.
- 5.2 In respect of the three projects in Rotherham, Rotherham Council will be the project owner and will work with internal and external consultants and works providers to deliver the projects. All work will be commissioned by Rotherham Council in accordance with the Council's Contract Procedure Rules.

## **6. Financial and Procurement Advice and Implications**

- 6.1 Any procurements identified as part of these schemes will be carried out in accordance with Public Contract Regulations and the Council's Financial and Procurement Procedure Rules.
- 6.2 The Council has received capital grant funding of £2.885m from the Government's Clean Air Zone Implementation Fund for the three capital projects and these have been added to the Council's approved capital programme. Whilst Government has confirmed that the risk of grant claw back is considered to be very low, the submission and agreement of the FBC is essential in order to completely remove this risk.

## **7. Legal Advice and Implications**

- 7.1 The Environment Act 1995 (Feasibility Study for Nitrogen Dioxide Compliance) Air Quality Direction 2017 set out the obligation for Rotherham Metropolitan Borough Council to carry out a Feasibility Study in relation to tackling roadside nitrogen dioxide concentrations and to submit initial and final plans identifying the preferred option for delivering compliance in the 'shortest possible time'. The definition of the term 'shortest possible time' is open for interpretation; however, the Council had been mandated to achieve compliance by 2021. The Council was originally required to set out the value for money considerations and implementation arrangements by 31 March 2018 (Strategic Outline Case) and 31st December 2018 (Full Business Case). For various reasons, it was not possible to meet these deadlines, despite an extensive amount of work having been conducted.
- 7.2 On the 24 February 2020, a further Direction was issued under the Environment Act 1995. The Environment Act 1995 (Sheffield City Council and Rotherham Metropolitan Borough Council) Air Quality Direction 2020 mandated both Authorities to implement the local plan for achieving compliance in relation to nitrogen dioxide levels. This Direction set out the requirement to achieve compliance by 2021. The Authorities were also required to submit their Full Business Case by the 24 March 2020. As a result of the limited timescale between receiving the Direction and the deadline, and the resulting impact of Covid-19 pandemic, this was not possible. Further work has been required as a result of the pandemic and its impact, which have placed a significant delay on the ability to submit a Full Business Case; however, a report submitted to Cabinet in March 2021 sought approval for the Council to proceed with identified works, which would assist in assuring the Council has taken all reasonable actions to achieve compliance.
- 7.3 The Direction is still in place and compliance is still required to be achieved within the shortest possible time. The current Direction still requires compliance by 2021. It should be noted that compliance is required by both Rotherham and Sheffield. Failing to achieve compliance as required by the Direction has the potential to result in the imposition of financial penalties against the Council, but only where the Council has failed to take appropriate action to comply with its duty. There is also a potential risk of Judicial Review



from members of the public generally or environmental groups for failing to meet the nitrogen dioxide levels set and meet the duty placed on the Council. Whilst these risks exist, the Council has worked consistently in an attempt to comply with the Direction and it could be argued that the Council has taken all appropriate action in an attempt to achieve compliance.

- 7.4 Proceeding with the 3 schemes has ensured that the Council has taken appropriate action to meet the duty set out within the Direction and achieve compliance within the shortest possible time. This has reduced the risk of any financial penalties and/or legal challenge for failing to do so. There still remains a risk in relation to the funding, as identified in paragraph 2.1 above. Whilst there remains a risk of funding clawback (should the schemes not be compliant with those contained in the eventual approved Full Business Case) JAQU have confirmed that the risk of such clawback would be 'very low'. This risk was properly weighed up against the requirement to achieve compliance and the need for the Council to take all appropriate action in order to do so.

## **8. Human Resources Advice and Implications**

- 8.1 There are no direct HR implications arising from this report. However, the majority of Council employees live in and around the Rotherham area, therefore; improvements in air quality and health outcomes for residents will in turn impact positively on the health of the workforce, contributing to the Council's commitment and overall strategies relating to employee health, safety and wellbeing.

## **9. Implications for Children and Young People and Vulnerable Adults**

- 9.1 The implications of poor air quality for the health and well-being of children and young people, and for the adult population, are significant. Poor air quality is strongly linked with poor health outcomes, and with increased mortality rates. The proposed actions to deliver improvements in air quality will therefore impact positively on the lives of children, young people, and vulnerable adults.

## **10. Equalities and Human Rights Advice and Implications**

- 10.1 An Equality Impact Assessment is included at Appendix 1. There are no directly affected defined characteristic groups impacted by the action recommended in this report requiring additional mitigation measures. However, for the Bellows Road scheme a full Equality Assessment will be carried out to ensure equality implications are identified from the proposed changes prior to completion of design and implementation of the changes.

## **11. Implications for CO2 Emissions and Climate Change**

- 11.1 A full Carbon impact assessment has been completed and can be found at appendix 2.

## 12. Implications for Partners

- 12.1. Work continues with a number of partners including South Yorkshire Passenger Transport Executive (SYLTE) and Highways England to ensure that the mitigating proposals can be fully delivered to achieve compliance in the shortest possible timescale.

## 13. Risks and Mitigation

- 13.1 Completing these projects removes the significant risk of RMBC not meeting its Air Quality compliance requirements as part of the joint mandate from government.
- 13.2 The submission of the FBC removes the, albeit low, risk of financial clawback in relation to the three schemes that are being delivered.

## 14. Accountable Officers

Tom Smith, Assistant Director Community Safety and Streetscene  
Simon Moss, Assistant Director Planning, Regeneration and Transport

Approvals obtained on behalf of Statutory Officers: -

	<b>Named Officer</b>	<b>Date</b>
Chief Executive	Sharon Kemp	28/01/22
Strategic Director of Finance & Customer Services (S.151 Officer)	Judith Badger	26/01/22
Assistant Director, Legal Services (Monitoring Officer)	Phillip Horsfield	21/01/22

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