

## RECORD OF EXECUTIVE DECISION

Tuesday, 19 June 2018

**Decision No:** (CAB 18/19 20895)

DECISION-MAKER:	CABINET
PORTFOLIO AREA:	LEADER OF THE COUNCIL
SUBJECT:	CLEAN AIR ZONE CONSULTATION
AUTHOR:	Steve Guppy

### THE DECISION

- (i) That Cabinet supports commencement of a 12 week public consultation exercise concerning proposals to introduce a Clean Air Zone in Southampton.
- (ii) That Cabinet endorses the outcome of the Clean Air Zone Outline Business Case to date, the preferred option identified and its consistency with SCC's Clean Air Strategy 2016-2025 (published November 2016).
- (iii) That Cabinet agrees to consider the outcome of the consultation at its meeting on 16th October 2018.

### REASONS FOR THE DECISION

1. Southampton City Council are required to assess the need for a Clean Air Zone to bring about compliance with EU Ambient Air Quality Directive levels of nitrogen dioxide within the shortest possible time and by the end of 2019 at the latest. The evidence base for this assessment which includes an air quality technical assessment and economic appraisal of options, has now progressed to a stage that is appropriate for the options to be considered through public consultation.
2. The requirements for consultation and charging schemes are set out in s.170 Transport Act 2000 where it is confirmed that it is for the individual authority to undertake consultation as they consider appropriate. Consultation must however take place at a formative stage of the proposals and allow sufficient time to engage consultees and consider responses in line with recent case law on consultation practice. For a consultation of this significance the consultation period of 12 weeks is considered appropriate and in line with case law and Cabinet Office guidance on public consultations.
3. The Clean Air Zone Framework requires both Southampton City Council and New Forest District Council to undertake extensive engagement and consultation with neighbouring authorities, local communities and businesses to: explain the aims, including the potential health and economic benefits; understand any concerns; and assess the need for any mitigating actions or identify alternative options for consideration.

4. While the formal 12 week consultation will mean Southampton will not achieve the date set out in the Ministerial Direction for the submission of the Full Business Case (15th September 2018), it will not affect the date of implementing the scheme and will therefore not impact on the Council's ability to achieve compliance with the nitrogen dioxide limits within the shortest possible time. By undertaking a thorough, transparent and open consultation in line with existing case law and government guidance it minimises the risk of facing future legal challenges and therefore adds confidence that the scheme can be implemented by the end of 2019.

#### **DETAILS OF ANY ALTERNATIVE OPTIONS**

1. That the Council shorten consultation timeframe and hold extraordinary meetings to ensure the Full Business Case for the preferred option can be submitted to the Secretary of State by 15th September 2018 and meet the Ministerial Direction. It was considered that the scale of the scheme and potential impacts on the city socially and economically required the most thorough consultation in accordance with national case law, Cabinet Office guidance and the Southampton Compact Code of Good Practice. A full 12 week consultation will also ensure that implementation of the approved scheme is unlikely to be delayed as a result of challenge to the Council's failure to follow standard practice, thereby providing more assurance that the Council's decision on the preferred option in due course can be put in place with the aim of achieving compliance with EU Ambient Air Quality Directive limits within the shortest possible time.
2. That the Council do not consult on the proposals. The Transport Act (2000) s170, the Clean Air Zone Framework 2017, national case law, Cabinet Office Guidance and the local Compact Code of Good Practice require meaningful and extensive consultation and engagement to be undertaken at a formative stage of the proposals.

#### **OTHER RELEVANT MATTERS CONCERNING THE DECISION**

The report was modified to include confidential background papers to enable Cabinet to access the most up to date technical information supporting the information and key/summary detail contained in the report itself.

Cabinet listened carefully to the request from some of the parties present at the meeting to proceed to consultation without a preferred option and their reasons for requesting this. Cabinet noted in particular the presenters' fears of creating a perception that charging is inevitable and the economic impacts they felt that may give rise to together with wider representations both for and against the proposals. However, Cabinet considered that the current scientific, health and evidence base clearly support a preferred option of a charging scheme as the method to achieve compliance with air quality targets in the quickest way possible as per the legal test for compliance. Cabinet considered that having a preferred option within the consultation provides a clear evidence base to focus the consultation on the key legal tests the City must meet while still allowing the widest possible range of feasible and evidenced based options to come forward supporting alternative means to achieve

the same end. Any alternatives put forward could then be tested and considered alongside evidence of economic and health impacts and other mitigation measures etc before any final decision on how to address air quality targets in the City is taken in due course.

### CONFLICTS OF INTEREST

None.

### CONFIRMED AS A TRUE RECORD

We certify that the decision this document records was made in accordance with the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 and is a true and accurate record of that decision.

Date: 19 June 2018

Decision Maker:  
The Cabinet

Proper Officer:  
Pat Wood

### SCRUTINY

Note: This decision will come in to force at the expiry of 5 working days from the date of publication subject to any review under the Council's Scrutiny "Call-In" provisions.

Call-In Period expires on 27 June 2018

Date of Call-in *(if applicable) (this suspends implementation)*

Call-in Procedure completed *(if applicable)*

Call-in heard by *(if applicable)*

Results of Call-in *(if applicable)*