
PRE DECISION SCRUTINY: AIR QUALITY CARDIFF

Reason for the Report

1. A report titled 'Air Quality Cardiff' is due to be received by Cabinet at its meeting on the 28 March 2018. The reasons for taking the report to Cabinet are described as:
 - To note that the Council has received a legal direction from Welsh Government titled Environment Act 1995 (feasibility study for Nitrogen Dioxide Compliance) Air Quality Direction 2018.
 - To enable Cabinet to approve the undertaking of a feasibility study as required by the legal direction from Welsh Government.
 - To approve the procurement of a specialist consultant to undertake the feasibility study to identify options for improving air quality and delivering compliance with the legal limits for nitrogen dioxide in Cardiff.

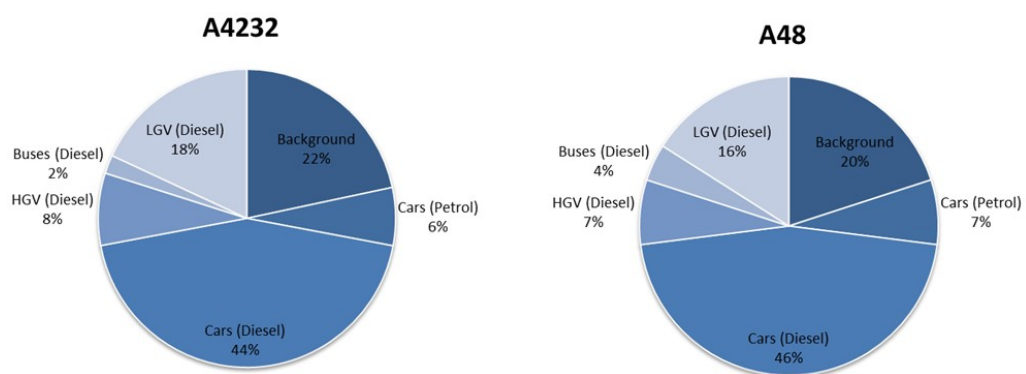
2. A copy of the Cabinet report titled 'Air Quality – Welsh Government Direction' is attached to this report as **Appendix 1**. The document describes the proposals and addresses them in the following sections:
 - Background;
 - Air Quality in Cardiff;
 - Legal Direction from UK Government to English Cities;
 - Legal Direction from Welsh Government;
 - Improvement Measures;
 - Clean Air Zones;

- Transport & Clean Air Green Paper.
3. Members are advised to read **Appendix 1** of the report and consider each of the areas bullet pointed against paragraph 2 (above).
 4. A summary of the key points from **Appendix 1** has been provided for Members below:
 - Poor air quality is now considered the largest environmental risk to public health in the UK. There is clear scientific evidence that shows that air pollution exposure reduces life expectancy by increasing mortality and morbidity risk from heart disease, and strokes, respiratory diseases, lung cancer and other conditions.
 - In the UK, in the context of air quality management, the main air pollutants that are the primary public health concern are particulate matter and Nitrogen Dioxide (NO₂). In the UK, it has been estimated that an equivalent of 23,500 deaths can be attributed to long-term exposure to NO₂ each year.
 - The principle source of these pollutants is from road transport emissions, particularly from diesel cars. In 2012, the International Agency for Research on Cancer listed diesel exhaust pollution as a Class 1 carcinogen and extended this to all ambient air pollution in 2013.
 - Poor air quality does not only cause ill health, it also has a wider societal cost. Accounting for health service costs and reduced productivity through lost workdays in the UK this is significant, standing at around £20bn every year.
 - Recent work by Public Health Wales estimates that the equivalent of over 220 deaths each year among people aged 30 and over in the Cardiff and Vale area can be attributed to NO₂, with many more citizens suffering ill health as a consequence of poor air quality.
 - Modelling undertaken by Defra suggests that the city is non-compliant on two major routes (two sections of the A48 and a section of A4232.). The modelling

undertaken by Defra indicates that non-compliance will continue beyond 2023, if no additional improvement measures are implemented.

- **Figure 1** represents the percentage of Nitrogen Oxides (NOx) source apportionment for NOx pollution on the A48 and A4232 as modelled by the Department for Environment, Food and Rural Affairs. It is clear from this figure that diesel cars account for the greatest source of pollution on this major road link in Cardiff.

Figure 1 - NOx Emission Source % Apportionment, JAQU



- There are four locations in which Air Quality Management Areas (AQMA's) have been declared (Stephenson Court on Newport Rd, City Centre - Westgate St, Llandaff and Ely Bridge).
- The UK and devolved Governments have a legal obligation to achieve nitrogen dioxide (NO₂) annual average limit value (40ug/m³) as set out in the EU Ambient Air Quality Directive (2008/50/EC) 'in the shortest possible time'. The UK is currently in breach of air quality limits so it must plan and take action to become compliant as quickly as possible.
- The two most recent attempts to produce statutory national plans to achieve compliance with air quality legislation have been successfully challenged and labelled insufficient in UK courts, most notably in the UK High Court of Justice in February of this year (see **Appendix 2**).
- In July 2017 legal directions with the exact same requirements as received by Cardiff from the Welsh Government, were placed on a number of English cities,

including Bristol, Greater Manchester and Sheffield. More specifically, three cities have been instructed to introduce a Clean Air Zone (CAZ): Birmingham, Leeds and Nottingham. Others have been required to develop effective local action plans by March 2018.

- Air quality is a devolved matter in the UK, meaning that the Devolved Administrations are responsible for developing domestic policies and legislation to improve air quality and reduce risks to human health. The Air Quality Standards Regulations 2010 transpose the Ambient Air Quality Directive requirements (2008/50/EC) into devolved legislation. These limits are identical across the UK and achievement is a mandatory requirement for Member States.
- Welsh Government have exercised the powers conferred by section 85(5) of the Environment Act 1995 and issued the direction titled Environment Act 1995 (feasibility study for Nitrogen Dioxide Compliance) Air Quality Direction 2018 (for details see **Appendix 3**). The direction came into force, as signed by the Minister, on 15th February 2018, and was delivered to Cardiff Council on the 9th March 2018.
- As a result of the direction Cardiff Council must complete the following activities by the dates specified:
 - i. **As soon as possible and by 31st March 2018 at the latest the initial scoping proposals:** Setting out the proposed approach to the feasibility study and including scope of work, governance, resourcing, procurement approach, indicative costs and timings.
 - ii. **As soon as possible and by 30th September 2018 at the latest the Initial Plan:** Setting out the case for change and identifying, exploring, analysing and developing options for measures that the local authority will implement to deliver compliance in the shortest possible time, with indicative costs for those options.
 - iii. **As soon as possible and by 30th June 2019 at the latest the Final Plan:** Identifying in detail the preferred option for delivering compliance in the

shortest possible time, and including a full business case setting out value for money considerations and implementation arrangements and timings.

- Cardiff Council is now legally required to undertake a full and comprehensive feasibility study, within the specified timescales, to identify the preferred option that will deliver compliance with legal limits of nitrogen dioxide in the shortest time possible. The feasibility study will rely heavily on detailed modelling to project transport trends, associated emissions and subsequent concentrations of nitrogen dioxide. Consultancy support will need to be sought to deliver a Modelling Needs Assessment, subsequent transport modelling and develop a Business Case for the preferred scheme.
- The Minister's letter that accompanied the formal direction (see **Appendix 4**) confirmed that finance would be made available for the production of the feasibility study and for the implementation of the chosen scheme.
- Clean Air Zones - In terms of demonstrating compliance in the shortest possible time, it is expected that the introduction of a Clean Air Zone must be extensively analysed as an option and benchmarked against alternative emission reduction measures.
- The Cabinet report defines a Clean Air Zone as 'an area where targeted action is taken to improve air quality and resources are prioritised and coordinated in order to shape the urban environment in a way that delivers improved health benefits and supports economic growth'.
- In Clean Air Zones access may be restricted, or charges may be imposed, for vehicles that do not meet certain emission standards. Likewise, there are often exemptions for newer vehicles that meet higher emission standards, emergency services vehicles, electric vehicles, scooters and mopeds.
- Welsh Government has not yet produced a framework for a Clean Air Zone that sets out the classes of vehicles potentially subject to these measures. While it is envisaged that the Welsh Clean Air Zone framework will have similar categories as set out in the DEFRA Framework (details of which can be found in **Appendix**

5), officers from Cardiff Council will work alongside the Welsh Government to ensure that any measures are appropriate to local circumstances, and can meet the twin outcomes of improving health benefits and supporting economic growth in Wales.

- ‘The latest modelling undertaken by Defra identified areas across the UK that may need to implement a Clean Air Zone to achieve compliance in the shortest time. One area identified in Wales, for which, based on current projections, a zonal approach would accelerate compliance, is in Cardiff. The results of the modelling indicates that Cardiff may benefit from the introduction of a Clean Air Zone, in order to achieve compliance with the national annual mean NO₂ objective in the shortest time possible. Defra’s report stipulates that should a CAZ be introduced in Cardiff by 2021 or earlier if possible this would ensure NO₂ compliance by 2022 or sooner.’
- A fundamental point is that the Council needs to ensure that any proposals are proportionate to the scale of the problem and tailored to local circumstances, whilst ensuring compliance in the shortest time possible.
- Specialist Consultants with a proven track record will be procured to undertake the detailed analysis and modelling to satisfy the requirement of the Direction within the specified timescales.
- On 21 March 2018 the Council published a Green Paper on Transport and Clean Air (attached as **Appendix 6**). The Green Paper sets out a series of options for consultation for tackling congestion and improving air quality in Cardiff. The consultation will be open until 1 July 2018, and the findings will be used alongside the feasibility study on air quality and outcomes from the recent consultation on the Council’s Economic Green Paper to inform the development of a White Paper on Transport and Clean Air that will be published in the autumn of 2018. It is anticipated that the Green Paper proposals will be the subject of a debate at Full Council in June 2018.

Way Forward

5. The Cabinet Members for Clean Streets, Recycling & Environment; Social Care, Health & Well-being and Strategic Planning have been invited to provide and officers from the City Operations Directorate have been invited to provide a briefing on the item and answer any questions that Members may have.

Legal Implications

6. The Scrutiny Committee is empowered to enquire, consider, review and recommend but not to make policy decisions. As the recommendations in this report are to consider and review matters there are no direct legal implications. However, legal implications may arise if and when the matters under review are implemented with or without any modifications. Any report with recommendations for decision that goes to Cabinet/Council will set out any legal implications arising from those recommendations. All decisions taken by or on behalf of the Council must (a) be within the legal powers of the Council; (b) comply with any procedural requirement imposed by law; (c) be within the powers of the body or person exercising powers on behalf of the Council; (d) be undertaken in accordance with the procedural requirements imposed by the Council e.g. Scrutiny Procedure Rules; (e) be fully and properly informed; (f) be properly motivated; (g) be taken having regard to the Council's fiduciary duty to its taxpayers; and (h) be reasonable and proper in all the circumstances.

Financial Implications

7. The Scrutiny Committee is empowered to enquire, consider, review and recommend but not to make policy decisions. As the recommendations in this report are to consider and review matters there are no direct financial implications at this stage in relation to any of the work programme. However, financial implications may arise if and when the matters under review are implemented with or without any modifications. Any report with recommendations for decision that goes to Cabinet/Council will set out any financial implications arising from those recommendations.

RECOMMENDATION

The Committee is recommended to:

- i. Note the contents of the report and pass on to the Cabinet any comments, observations or recommendations that they might have.

DAVINA FIORE

Director of Governance & Legal Services

23 MARCH 2018