

11th December 2018

KEY DECISION: YES

**AIR QUALITY PLAN TO REDUCE NITROGEN DIOXIDE CONCENTRATIONS
ON THE A331 – OUTLINE BUSINESS CASE****SUMMARY AND RECOMMENDATIONS**

The purpose of this paper is to seek Cabinet approval of the Outline Business Case to improve air quality on the A331 (Blackwater Valley Relief Road), thereby complying with the Ministerial Direction served on Rushmoor on 27 July 2017.

The Secretary of State expects the Outline Business Case to have Cabinet approval and to be submitted by 31 December 2018 at the latest. The following recommendations help ensure that Rushmoor Borough Council complies with this Ministerial Direction, and that implementation of the preferred option to improve air quality can proceed as proposed.

It is recommended that Cabinet:

- (i) Endorse the Outline Business Case and the preferred option of a 50mph speed limit on a section of the A331, as shown in Figure 1
- (ii) Authorise the Head of Operations, in consultation with the Operational Services Portfolio Holder, to finalise and submit the Outline Business Case to Government by 31 December 2018
- (iii) Authorise the Head of Operations, in consultation with the Operational Services Portfolio Holder, to finalise and submit the **Full** Business Case to Government when complete
- (iv) Authorise the Head of Operations, to approve future income and expenditure through the budget monitoring process, with the condition that expenditure will be kept in line with income

1. INTRODUCTION & BACKGROUND

- 1.1 The UK Plan (2017) for tackling roadside nitrogen dioxide (NO₂) concentrations named Rushmoor BC. along with Guildford BC and Surrey Heath BC, as needing to undertake a Feasibility Study, or Outline Business Case, to explore measures to achieve compliance with the annual mean EU limit value for NO₂ along the A331 (Blackwater Valley Road) in the shortest possible time.
- 1.2 This Outline Business Case details the process by which a preferred option has been identified that will bring about compliance. It also provides the

rationale and justification for securing funding from Central Government to allow delivery of the plan.

- 1.3 A Full Business Case will be produced following a period of statutory consultation and likely by May 2019.
- 1.4 Delivery of the Plan is being overseen by the DEFRA/Department for Transport Joint Air Quality Unit (JAQU). Rushmoor BC has been working collaboratively with Surrey Heath BC and Guildford BC, along with the respective highways authorities of Surrey and Hampshire CCs (the Blackwater Valley Group).
- 1.5 The three authorities have been directed to undertake this work due to the presence of the Blackwater Valley footpath that runs close to the A331 at times. It should be noted that the EU one-hour limit value for NO₂ is comfortably achieved but that Rushmoor has been directed to consider the annual mean NO₂ EU limit value along a path where an individual will spend minutes at most. Rushmoor has been monitoring for NO₂ across the borough for 20 years and where people do spend considerable time, such as in residential areas and schools, we are meeting air quality standards.

Ministerial Direction

- 1.6 The Ministerial Direction served under Section 85(5) of the Environment Act 1995 on the 27 July 2017 requires the three Local Authorities to:

“Undertake as part of the UK plan for tackling roadside nitrogen dioxide concentrations 2018, a Feasibility Study in accordance with the HM Treasury’s Green Book approach, to identify the option which will deliver compliance with legal limits for nitrogen dioxide in the area for which the authority is responsible, in the shortest possible time.”

- 1.7 The Ministerial Direction requires the Outline Business Case be submitted as soon as possible and by the 31 December 2018 at the latest. JAQU expect it to have Cabinet approval. The Outline Business Case is available from the Members Resource Room or from Richard Ward, Environment/Airport Monitoring Officer, using the contact details below.

Bradford’s Roundabout junction improvements

- 1.8 A scheme to improve traffic flow at Bradford’s Roundabout, had previously been included in the Farnborough Growth Package but not progressed. The opportunity has now been taken to secure capital funding of £438,685 under the Early Measures Fund, to deliver air quality improvements around this junction.
- 1.9 Currently, vehicles exiting the A331 are caught in congestion at the south eastern arm of Bradford’s roundabout. The scheme will improve egress capacity around the A331/A325 junction, by creating a new lane on the northern side of the eastern approach arm of Bradford’s roundabout, within the existing grass verge (Figure 1). This third lane will provide additional capacity

for traffic entering the roundabout and wishing to proceed to the west or north, or back to the A331 to the east. It will reduce congestion and queuing, and result in less constrained flows on the part of the A331 identified as not being compliant with the EU Limit value post 2020. It has been calculated that the proposed scheme would remove an additional 4.4 tonnes of NO_x emissions over 10 years. Hampshire CC will deliver the scheme in 2019.

2. THE DEVELOPMENT OF THE OUTLINE BUSINESS CASE

Local Air Quality Modelling

- 2.1 Detailed local traffic and air quality modelling, informed by automatic number plate recognition (ANPR), traffic surveys and NO₂ monitoring, has been undertaken to determine levels of NO₂ on the local road network.
- 2.2 The results show that, in the absence of any additional measures, compliance with the annual mean NO₂ EU limit value along part of the A331 in Rushmoor will not be achieved until 2022. Rushmoor is therefore obliged to take appropriate action to achieve compliance in the shortest possible time.

The preferred measure

- 2.3 One single feasible measure has been identified; a 50mph speed limit along approximately 2.5km of the A331, between Coleford Bridge and Frimley. It currently has a speed limit of 70mph (Figure 2). Detailed local modelling identifies this as the only viable solution, delivering compliance in 2021.
- 2.4 Once compliance of the EU Limit Value has been demonstrated and shown to be maintainable, the road will revert back to 70mph. Decommissioning of the infrastructure is included within the costings that will be submitted to JAQU.

3. LEGAL IMPLICATIONS

- 3.1 To comply with the Ministerial Direction, the Outline Business Case must be submitted to JAQU as soon as possible and by the 31 December 2018 at the latest. Under Section 85(7) of the Environment Act 1995 the Council has a duty to comply with the Direction. The Direction itself does not specify any penalties for non-compliance.
- 3.2 However under Part 2 of the Localism Act 2011 the Secretary of State has a discretionary power to require Local Authorities to contribute to any EU financial sanctions imposed under Article of 260(2) of the Treaty of the Functioning of the European Union when the acts of the authority have caused or contributed to the infraction of EU law. The Council is therefore at risk of financial penalty if it does not comply with the Ministerial Direction.
- 3.3 In addition, the Secretary of State has been taken to the High Court a number of times by ClientEarth, a legal environmental charity in relation to compliance with legal limits for NO₂. The resultant High Court judgements have clarified what is expected from Air Quality Plans, giving detailed and definitive rulings on the proper interpretation of the obligations that flow from the EU Directive.

The adoption of local air quality plans that do not meet these tests may be open to judicial review.

4. FINANCIAL AND RESOURCE IMPLICATIONS

- 4.1 The Government had set up a £255m National Implementation Fund to fully support Local Authorities in preparing their plans and for delivering targeted action to improve air quality. All costs throughout the length of the project including investigation, implementation, decommissioning, monitoring and evaluation are paid for by this funding.
- 4.2 A grant of £50,000 was initially awarded in August 2017 to each of the three authorities, under Section 31 of the Local Government Act 2003, to begin work on the project. This was considered by Cabinet on 17 October 2017 in Report No. EHH 1729
- 4.3 JAQU awarded a further grant payment of £600,000 to the Blackwater Valley Group in February 2018 to support the development of the joint Outline Business Case. The resource used to develop the Outline Business Case is fully funded from this grant.
- 4.4 The approximate budget of implementing the preferred measure is ~~£750,000~~ **£432,055** and will be implemented subject to approval and full funding from JAQU. Rushmoor BC will be the recipient of grant funding to oversee monitoring and evaluation of the project. Hampshire CC will be the recipient of grant funding for delivery and implementation of the measure. The Section 151 officer for both authorities have confirmed support of this approach and will provide a commissioners letter/joint statement that confirms that the financial costs of the scheme can be contained within the agreed and available budget, subject to receipt of the required level of funding from Central Government.

5. WHAT HAPPENS NEXT

- 5.1 Subject to the Cabinet's approval, the Outline Business Case will be submitted before the end of December 2018 to comply with the Ministerial Direction.
- 5.2 A 6-week statutory consultation, jointly undertaken by HCC and SCC, will commence in early 2019 on the Traffic Regulation Order. In tandem, Hampshire CC will proceed with procurement of the highway infrastructure, in line with their standard procurement procedures. Rushmoor will proceed with the procurement of air quality monitoring equipment required for the duration of the project. This is so the Full Business Case can be fully costed, with the appropriate level of contingency, in order to secure the necessary level of funding to allow delivery of the local plan.
- 5.3 Upon acceptance of the Outline Business Case, the Full Business Case will be produced for JAQU approval. It is anticipated that a new Ministerial Direction will be issued to the relevant Councils to deliver implementation of the Local Plan.

6. EQUALITIES IMPACT IMPLICATIONS

- 6.1 The preferred measure has been subject to modelling within the Outline Business Case that included its equality impacts. No significant issues were identified.

7. CONCLUSIONS

- 7.1 The preferred measure has been subject to modelling within the Outline Business Case that included its equality impacts. No significant issues were identified.
- 7.2 Cabinet is asked to support the recommendations detailed at the beginning of this report.

CONTACT DETAILS:

Report Author	Richard Ward, Environment/Airport Monitoring Officer richard.ward@rushmoor.gov.uk - 01252 398137
Head of Service	James Duggin, Head of Operational Services james.duggin@rushmoor.gov.uk - 01252 398543

BACKGROUND PAPERS

- Air quality plan for nitrogen dioxide (NO₂) in UK (2017), Defra, July 2017
<https://www.gov.uk/government/publications/air-quality-plan-for-nitrogen-dioxide-no2-in-uk-2017>
- Environment Act 1995
<https://www.legislation.gov.uk/ukpga/1995/25/contents>
- Environment Act 1995 (Feasibility Study for Nitrogen Dioxide Compliance) Air Quality Direction 2017
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/746095/air-quality-no2-plan-directions-2017.pdf
- Localism Act 2011
<http://www.legislation.gov.uk/ukpga/2011/20/contents/enacted>
- High Court ruling 2016 <https://www.judiciary.uk/wp-content/uploads/2016/11/clientearth-v-sseviron-food-rural-affairs-judgment-021116.pdf>

Figure 1. Proposed new lane at Bradford's roundabout

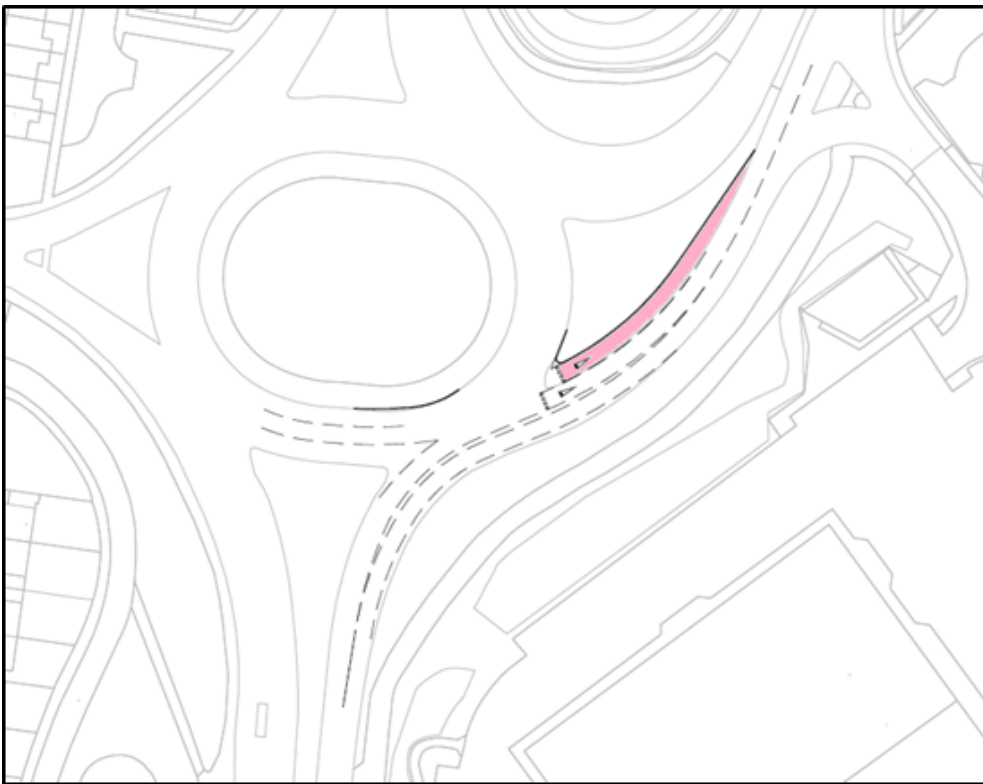
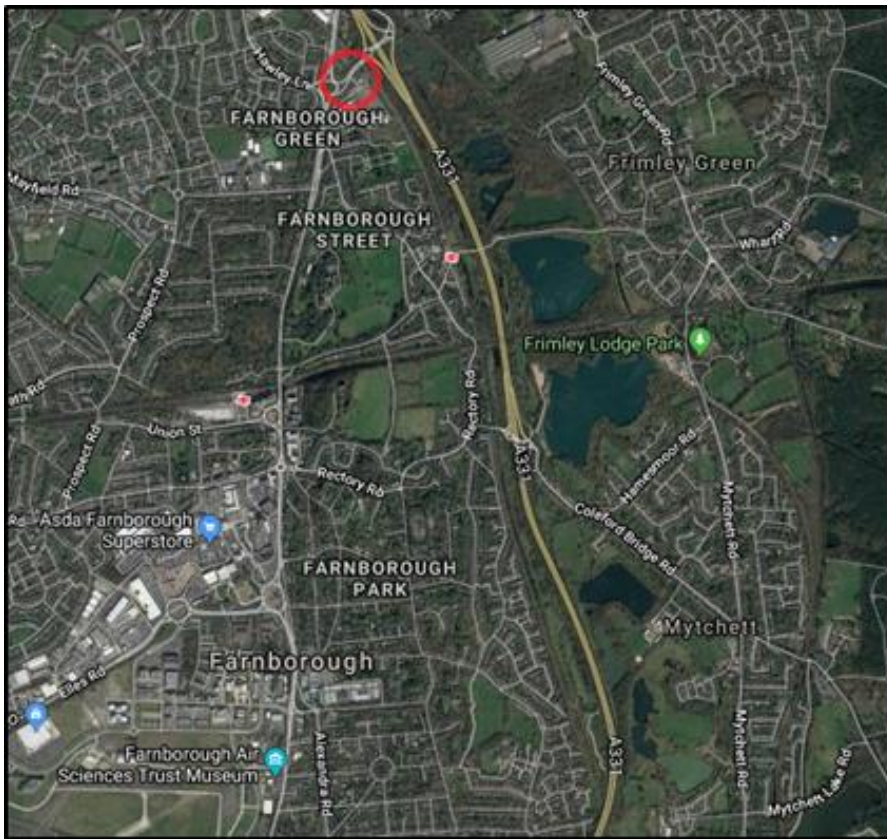


Figure 2. Extent of proposed 50mph section of the A331.

