

Air Quality Feasibility Study

Summary

The report seeks approval of the Outline Business Case to implement measures to improve air quality on the A331 (Blackwater Valley Relief Road) and comply with the accompanying Ministerial Direction.

The Blackwater Valley partnership of Guildford Borough Council, Surrey Heath Borough Council, Rushmoor Borough Council, Surrey County Council and Hampshire County Council have jointly prepared the Outline Business Case as they all have an interest in the A331.

Portfolio – Environment & Health

Date Portfolio Holder signed off report: 22 November 2018

Wards Affected – Frimley, Frimley Green, Mytchett & Deepcut, St Michaels and Watchetts.

Recommendation

The Executive is advised to RESOLVE that

- (i) the Outline Business Case (OBC) to date and the preferred option of a 50mph speed limit on a section of the A331, as set out in the OBC (to be circulated separately) be endorsed; and
- (ii) the Executive Head of Community, in consultation with the Environment & Health Portfolio Holder, be authorised to
 - a) make any minor amendments to the Outline Business Case;
 - b) submit the Outline Business Case to the Joint Air Quality Unit (JAQU) at The Department for Environment, Food and Rural Affairs (DEFRA) by the 31 December 2018; and
 - c) submit the Full Business Case to the Joint Air Quality Unit.

1. Resource Implications

- 1.1 All costs throughout the length of the project including investigation, implementation, monitoring and evaluation are paid for by Government funding.
- 1.2 A grant of £50,000 was initially awarded by the Joint Air Quality Unit (JAQU) at The Department for Environment, Food and Rural Affairs (DEFRA) in August 2017 under Section 31 of the Local Government Act 2003 to Surrey Heath Borough Council to develop the 'Proposal for

a Feasibility Study for a Local Plan'. Guildford Borough Council and Rushmoor Borough Council were similarly both awarded £50,000.

- 1.3 JAQU awarded a further grant payment of £600,000 to Surrey Heath Borough Council under Section 31 of the Local Government Act 2003 in February 2018 to support the development of the joint feasibility study by all three Local Authorities subject to a Ministerial Direction. This is because Surrey Heath agreed to carry out the procurement for the feasibility study on behalf of the other authorities.
- 1.4 The approximate cost of implementing the measures in the Outline Business Case is £450,000 and will be implemented subject to approval and full funding from JAQU. The Blackwater Valley Partnership has agreed that Rushmoor Borough Council will be the recipient of the implementation grant. This is because the implementation measures will mainly be carried in the stretch of the A331 which runs through Rushmoor Borough Council administrative area. The Section 151 officer for Rushmoor Borough Council has confirmed support of this approach.
- 1.5 All officer time spent in the development of the feasibility study across the Blackwater Valley Partnership is paid for from the grant. The grant spend is monitored by the Technical Working Group with regular reports to JAQU and the Strategic Working Group.

2. Key Issues

Background

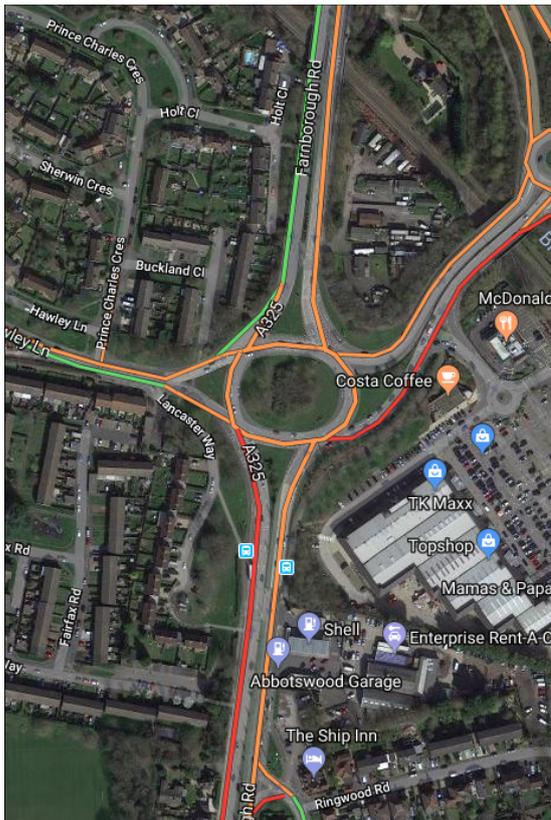
- 2.1 In July 2017 the Government published the National Air Quality Plan for Nitrogen Dioxide (the Plan). The Plan sets out how the Government will ensure compliance with air quality limits in the shortest possible time. A key part of the Plan is a requirement on some Local Authorities to undertake feasibility studies to explore a range of measures to improve air quality.
- 2.2 Surrey Heath Borough Council was one of the Local Authorities named in the plan. Delivery of the plan is being overseen by the Defra/Department for Transport Joint Air Quality Unit (JAQU). The Government has put a legal duty to produce Feasibility Studies, in a Ministerial Direction and has allocated funding for resourcing the studies and implementation of schemes.
- 2.3 The Plan identified a straight-line exceedance on a short section of the A331, Blackwater Valley Relief Road, within the Borough of Surrey Heath as having predicted exceedances of the EU Ambient Air Quality Directive limits of Nitrogen Dioxide (NO₂).

Blackwater Valley Partnership

- 2.4 Surrey Heath Borough Council is working collaboratively with Guildford Borough Council and Rushmoor Borough Council, who were also named in the Plan in relation to the A331, along with the respective highways authorities of Surrey and Hampshire County Councils to produce a Feasibility Study to reduce roadside nitrogen dioxide concentrations in the shortest possible time.
- 2.5 A Memorandum of Understanding signed by the five authorities outlines how the Blackwater Valley Group will work in partnership to produce a feasibility study to achieve compliance with Ministerial Direction served on the three Borough Councils.
- 2.6 The Blackwater Valley partnership has both a Technical and Strategic Group which meet regularly. As the A331 meets Junction 4 of the M3, Highways England is also a partner along with JAQU who provide advice, support and finance the partnership. Membership of the Strategic Group includes both the Director/Executive Head and Lead Councillor for air quality from the five Councils.

Early Measures Fund

- 2.7 The Blackwater Valley Partnership has been awarded a grant from the JAQU Early Measures fund to implement a scheme to improve air quality on the A331.
- 2.8 Currently vehicles exiting the A331 are caught in congestion on the south eastern approach to Bradford's roundabout. (Also known locally as 'Farnborough Gate roundabout'). Queues for west or northbound traffic on the A331 link road are caused by southbound traffic flow from the A325 having priority at the roundabout. Vehicles are currently queuing back approximately 60 metres from the roundabout in both the AM and PM peak.
- 2.9 The scheme seeks to provide improvement by creating a third lane on the northern side of the eastern arm of Bradford's roundabout, within the existing grass verge. The 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.
- 2.10 Implementing this scheme will reduce congestion at this location, reducing the amount of time vehicles are idling and improving flows from the northern section of the A331 onto the local highway network.
- 2.11 The scheme will be delivered by Hampshire County Council on behalf of the partnership by 2020 and paid for by Defra (JAQU).
- 2.12 See road layout in diagram below;



Local Air Quality Modelling

- 2.13 The air quality data in the Plan was based on the Defra's Pollution Climate Mapping (PCM) Model, which is an umbrella screening tool. Figure 1, in the Outline Business Case (Appendix 1) shows the PCM modelled NO₂ exceedances along the A331.
- 2.14 The Blackwater Valley partnership undertook an exercise to validate the PCM data using local information including a week long ANPR (automatic number plate recognition survey) to better understand the vehicles and journeys completed on the A331.
- 2.15 The local air quality modelling indicates that in the absence of any action, compliance with the annual mean for nitrogen dioxide limit value is modelled to be achieved in 2019 in the area administered Surrey Heath Borough Council; 2020 for Guildford Borough Council and 2022 for Rushmoor Borough Council.
- 2.16 The local data also was also helpful in identifying the measures to achieve compliance in the shortest possible time.

Benchmark Option – Clean Air Zone

- 2.17 JAQU guidance states that a Clean Air Zone should be the benchmark option as it considers a Clean Air Zone to be the quickest solution to achieving compliance in the majority of cases. As the A331 is a straight-line exceedance, a clean air zone is likely to cause traffic to

divert increasing air pollution in other areas. The Blackwater Valley partnership submitted a technical note to JAQU discounting the default of a Clean Air Zone benchmark in favour of other measures which is included in the Outline Business Case

The preferred measure

- 2.18 The development of preferred measure has involved the production of the Feasibility Study, the Strategic Outline Case, the Initial Evidence Submission (which was approved the methodology and results) and now the Outline Business Case. JAQU and consultants have been involved in every decision making stage.
- 2.19 The initial long and shortlist of measures to achieve compliance in the shortest possible time was developed as part of the Strategic Outline Case.
- 2.20 Individual and packages of measures have been constantly under review as local data has become available and as implementation of the measures has been explored and evaluated.
- 2.21 The group have now identified one single feasible option which is a 50mph speed limit for a stretch of the A331 in the areas of Rushmoor Borough Council and Surrey Heath Borough Council. The stretch of road currently has a speed limit of 70mph. The Blackwater Valley Technical Group considers the preferred measure to be the only solution due to the uniqueness of the straight-line exceedance in this location. See map attached - Appendix 1.
- 2.22 The measure can deliver compliance in 2021 and is modelled to bring the annual mean nitrogen dioxide concentration to $40.38\mu\text{g}/\text{m}^3$. The current indicative cost for implementing the measure including implementation, decommissioning, monitoring and evaluation is £450,000.
- 2.23 The rationale for the proposed measure is detailed within the Outline Business Case along with the reasons for discounting the other long and short list of measures. The measures have been assessed by technical experts from the five Blackwater Valley Partnership Authorities and external Consultants who are also working with other Local Authorities subject to Ministerial Directions.

3. Options

- 3.1 As a ministerial Direction has been served on Surrey Heath Borough Council by the Parliamentary Under Secretary of State for the Environment, doing nothing is not an option.
- 3.2 Doing nothing could result in fines from the EU in relation to non-compliance with EU limit values for air quality being passed on from

The Secretary of State under the Localism Act 2011. Legal action could also be taken against the Council by parties such as Client Earth.

- 3.3 There are 2 options available after considering the information in this report:
- a. Approve the 4 recommendations as shown at the beginning of the report.
 - b. Adopt a modified version of the 4 recommendations as shown at the beginning of the report.
- 3.4 To meet the requirements of the Ministerial Direction officers recommend Option a.
- 3.5 In order to comply with the Ministerial Direction all the Authorities in the Blackwater Valley Partnership have to endorse the Outline Business Case so approving Option 2 is not recommended by officers, as it would prevent submission of the Outline and Full Business Case by the deadlines.

4. Proposals

- 4.1 It is proposed that:

The Council endorses the Outline Business Case to date and the preferred option of a 50mph speed limit on a section of the A331 see link for OBC; [\(link to be added here\)](#)

- a. Any minor amendments to the Outline Business Case are delegated to the Executive Head of Community in consultation with the Environment & Health Portfolio Holder.
- b. The Outline Business Case is submitted to the Joint Air Quality Unit (JAQU) at The Department for Environment, Food and Rural Affairs (DEFRA) by the 31 December 2018.
- c. The Executive Head of Community in consultation with the Environment & Health Portfolio Holder be delegated to submit the Full Business Case to the Joint Air Quality Unit.

5. Supporting Information

- 5.1 The following documents support this report

- 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/sys>

tem/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>
- What does ClientEarth's legal cases mean for Feasibility Studies for nitrogen dioxide compliance in England
<https://www.documents.clientearth.org/wp-content/uploads/library/2018-04-18-legal-test-for-feasibility-studies-ce-en.pdf>

6. Corporate Objectives And Key Priorities

- 6.1 The Executive approved a new five year strategy in August 2016 which sets out the Council's vision and objectives for the next five years. It also includes a number of longer term key priorities in addition to the Council's ongoing service delivery. The Five Year Strategy is a rolling document and a refreshed version was approved earlier this year. The priorities are presented under the headings of Place, Prosperity, Performance and People.
- 6.2 The objective under people is that we will build and encourage communities where people can live happily and healthily. Clean air is a fundamental requirement for people to live healthily.

7. Legal Issues

- 7.1 The Ministerial Direction served under Section 85(5) of the Environment Act 1995 on the 27 July 2017 required the three 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.”
- 7.2 The Direction identifies two specific activities with deadlines. The first part of submitting an Initial Plan (Strategic Outline Case (SOC)) as soon as possible and by the 31 March 2018. This was completed on time and produced a shortlist from a longlist of potential measures to deliver compliance with the legal limits for nitrogen dioxide in the shortest possible time.
- 7.3 The second part of the Direction requires a Final Plan (Outline Business Case) to be submitted to JAQU as soon as possible and by the 31 December 2018 at the latest. JAQU guidance requires there is formal Member approval of Final Plan.

- 7.4 The Direction itself does not specify any penalties for non-compliance. 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 Direction.
- 7.5 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 nitrogen dioxide. A briefing issued by ClientEarth states that Plans adopted by Local Authorities must meet the tests laid down by the High Court in ClientEarth (NO.2) and any decision by a Local Authority to adopt a plan that does not meet the test could be subject to judicial review.

8. Consultation

- 8.1 Consultation has taken place with the Blackwater Valley Strategic Working Group which includes senior officers and Lead Members for Air Quality at each of the five Local Authorities in the partnership; all support the option to introduce a 50mph speed limit on the specified section of the A331.
- 8.2 A similar report will be submitted to the Local Area Committee seeking approval for the 50mph speed limit to be imposed on a designated area of the A331. If approved this will require public consultation which will be carried out by Surrey County Council and Hampshire Highway Authorities.

9. Equalities Impact Assessment

- 9.1 Implementation of measures to improve air quality will have a positive public health effect on all groups, particularly those using the foot path which runs alongside the A331.

10. Risks

- 10.1 There is the risk that the Highway Authority may object to the imposition of a 50mph speed limit. As this is the only measure identified which would achieve compliance in the shortest time possible the Council could be at risk for non-compliance of the Direction.

11. Officer Comment

- 11.1 The Blackwater Valley Partnership has produced an Outline Business Case to meet the requirements of the Ministerial Direction. The Outline Business Case identifies the preferred measure to achieve compliance in the shortest possible time and evidence to support the option.

- 11.2 If the Executive approves the recommendations along with Guildford Borough Council, Rushmoor Borough Council, Surrey County Council and Hampshire County Council, the Outline Business Case will be submitted to JAQU for approval.
- 11.3 If the Outline Business Case is approved by JAQU and a grant is awarded to implement the measures, formal public consultation will begin on the proposed speed reduction and accompanying measures.
- 11.4 Officers recommend the Executive approves the recommendations in the report as the only option which would achieve compliance with the Ministerial Direction.

Annexes	Outline Business case (hard copy available in the Members' Room)
Background Papers	As set out in paragraph 5.1
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Head Of Service	Tim Pashen – Executive Head Community

Consultations, Implications and Issues Addressed

Resources	Required	Consulted
Revenue	✓	✓
Capital	✓	✓
Human Resources		
Asset Management		
IT		
Other Issues	Required	Consulted
Corporate Objectives & Key Priorities	✓	✓
Policy Framework	✓	✓
Legal	✓	✓
Governance	✓	✓
Sustainability		
Risk Management		
Equalities Impact Assessment	✓	✓
Community Safety		
Human Rights		
Consultation	✓	✓
P R & Marketing	✓	✓