



Derby City Council

**Council Cabinet**  
**15 March 2017**

**ITEM 10**

Report of the Cabinet Member for  
Neighbourhoods and Public Protection

## **Air Quality: Clean Air Zone & Complementary Measures**

### **SUMMARY**

- 1.1 In 2015 Derby City Council was identified by DEFRA, along with four other cities, as having areas of air quality exceedance. Since then the Council has been working under a direction to deliver a Clean Air Zone, with a chargeable access restriction, by 2020. The timescale is very challenging and the Council will be required to respond to the demands set by DEFRA throughout the project.
- 1.2 In recent months the issue of air quality has been expanded by DEFRA, beyond the specifics of a Clean Air Zone, to include 'complementary measures'. Although as yet undefined these are likely to have impacts on asset strategies and operations of other Council Services, and impacts across the local community and businesses.
- 1.3 Air Quality has been headline news since the court case brought by Client Earth, which found serious fault with the approach of government. Air quality is also now a public health priority. Public Health England, estimate that exposure to air pollution has an effect equivalent to approximately 25,000 deaths per year in the UK. It has also been reported that 60,000 people per year are likely to suffer illness related to poor air quality.
- 1.4 The points above briefly explain the national policy context and why the Council is required to take action. The Council is required to work towards a submission indicating options for managing air quality that include a Clean Air Zone, with chargeable access restriction, and some possible complementary measures. Appendix 3 shows the outline areas of a possible access restriction that are being considered as a 'provisional working option' and which could eventually be included in a submission to DEFRA. This will need to be fully modelled and tested over the next 12 months before the Council and DEFRA can be confident that it represents an acceptable approach for the city.
- 1.5 The Council needs to ensure that local businesses and residents understand that it is acting under the direction of DEFRA to implement a chargeable access restriction and complementary measures. The timetable, charges, and the vehicle types affected, are all defined by DEFRA. The Council is responding by seeking a locally proportionate solution, working with a wide range of partners to secure funding from DEFRA to assist affected individuals and groups with the transition. The provisional working option is intended only to suggest one possible solution for where a chargeable access restriction could be implemented.

**RECOMMENDATION**

- 2.1 To note the provisional working option as presented and to authorise officers to commence consultation and engagement with the public and stakeholders to fully understand the potential implications arising.
- 2.2 To delegate approval to the Strategic Director, Communities and Place in consultation with the Cabinet Member for Neighbourhoods and Public Protection and the Director of Finance, to develop further any options for a chargeable access restriction to meet the DEFRA mandate and to submit bids and accept grant funding for the Clean Air Zone, associated chargeable access restriction and any complementary measures.

**REASONS FOR RECOMMENDATION**

- 3.1 The recommendations will allow the Council to make progress to comply with the direction requiring the implementation of a Clean Air Zone, with a chargeable access restriction, and complementary measures. The timescales set by DEFRA for implementation (before 2020) are very challenging. DEFRA funding will be available through a continuous process for bidding for packages and lots. The delegation of approvals will allow the Council to keep pace with the task and opportunities.
- 3.2 The provisional working option for a Clean Air Zone and chargeable access restriction for Derby is intended to be a proportionate and deliverable response. This will not necessarily be the final project submission. The final proposal is expected to be submitted for Council Cabinet approval in 2018.
- 3.3 The recommendation to make the public and particular stakeholder groups aware of the provisional working options will allow the Council to begin working with partners across various sectors. Grant funding will be made available to the Council and businesses for specific complementary projects. Access to funding will require joint working and cross-sector support. The provisional working options will begin to form the justification for future bids, and to ensure that the Council, local businesses and the wider community has opportunities to benefit from any available funding.



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**SUPPORTING INFORMATION**

- 4.1 **Access Restriction:** The government published a draft Statutory Instrument (SI) in October 2016; under the Transport Act 2000. The draft SI states that Derby City Council must submit a draft charging scheme to the Secretary of State within 12 months of the date on which the regulations come into force. It is currently proposed that this will be May 2017. The Council will have to complete a feasibility study, test options and carry out formal public consultation during 2017. A final submission to the Secretary of State will have to be made by May 2018 to meet the proposed statutory deadline of March 2020.
- 4.2 The chargeable access restriction is not a congestion charge and will not apply to all vehicles. Private cars will not be affected by the restriction but government require that a restriction applies to buses, taxis and HGV's. DEFRA'S definition of vehicle types to be included is set out in appendix 2.
- 4.3 Although the Council will be bound to follow the direction set out by DEFRA, it is important that the Council's response is proportionate, and produces air quality benefits for Derby while recognising and addressing where possible the economic and other impacts that are likely to arise. In an attempt to achieve this balance the provisional working option is based on a phased approach.
- Phase 1 - the introduction of a class B (see appendix 2) chargeable access restriction within the area bounded by the inner ring road (but not including the inner ring road and the bus station) (see appendix 3) by 2020.
  - Phase 2 - the introduction of an extended class B chargeable access restriction within the area bounded by the outer ring road by 2025 (see appendix 3).
- 4.4 The Council will be seeking assurance that this proportionate approach will satisfy DEFRA and that it could form the basis of a more detailed proposal to be submitted in May 2018. We are expecting the testing process to be rigorous, and we should expect that DEFRA will require amendments. Central government policy around Air Quality is still developing, and the Council's response will be subject to possible changes in government policy direction.

- 4.5 **Complementary Measures:** Government is also promoting a wide-range of ‘complementary’ measures for improving air quality. It is clear that the government will offer various grants, which require the Council to make bids for funding and it is important that we are able to react quickly to ensure that we can take full advantage of any opportunities to lever in funding to support the actions we need to take. Bids have already been made for funding for ‘pilot’ projects for Council vehicle fleet changes, projects to work with licensed hackney carriages, and a joint project with the other four identified cities to raise public awareness of air quality issues. The Council has responded to DEFRA requests for project cost estimates and provided a strategic outline case. In addition the Council has responded to invitations to submit early suggestions for possible complementary measures to engage with freight transport, vehicle licensing innovations, and possible local highway network changes.
- 4.6 The purpose of the projects is to begin to build knowledge of options available to change vehicles, travel behaviour, and to support the impact of a chargeable access restriction. DEFRA expect the Council to take the lead. Many of the complementary measures are likely to have impacts on Council services, and may require policy changes, for example, to the type of vehicles currently licenced as taxis. We are waiting for further guidance and decisions from DEFRA on the projects submitted.

<b>OTHER OPTIONS CONSIDERED</b>
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- 5.1 The Council could delay engagement with DEFRA, and stakeholders on the draft proposals and wait until government publishes the Statutory Instrument; formally issuing the mandate to the Council, and for advanced modelling work to be completed, however with the current delays in the process it could be many months before this is complete. In the short to medium term this is likely to make it harder for the Council to access government funding for complementary measures. In the longer term it is possible that the Council may be at risk of failing to deliver the Chargeable Access Restriction and may face future (as yet undefined) financial penalties.

**This report has been approved by the following officers:**

<p><b>Legal officer</b>  <b>Financial officer</b>  <b>Human Resources officer</b>  <b>Estates/Property officer</b>  <b>Service Director(s)</b></p> <p><b>Other(s)</b></p>	<p>Olu Idowu, Head of Legal Services                  Amanda Fletcher, Head of Accountancy</p> <p>David Gartside, Acting Director Strategic Partnerships, Planning and Transportation                  John Tomlinson, Director, Communities, Environment and Regulatory Services                  David Bartram, Acting Director, Streetpride</p>
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<p><b>For more information contact:</b>  <b>Background papers:</b>  <b>List of appendices:</b></p>	<p>Nigel Brien 01332 641833 nigel.brien@derby.gov.uk                  None                  Appendix 1 – Implications                  Appendix 2 - Class B Zone Definition                  Appendix 3 – Working Option Plans of draft restriction areas</p>
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**IMPLICATIONS****Financial and Value for Money**

- 1.1 DEFRA has undertaken to provide funding to the five Air Quality exceedance cities outside London to meet the cost of the development and implementation of the Clean Air Zone and chargeable access restrictions.
- 1.2 DEFRA previously estimated the cost of implementation for the five authorities identified will be approximately £20m. It is critical that the Council has access to grant funding delivery costs and to assist stakeholders with transitional arrangements. The Council, along with the other our cities, has been clear about the scale of funding required.
- 1.3 A previous DEFRA financial framework made reference to local authorities progressing devolution deals and that the minimum clean air zone requirements making no new financial burden on them, but it is unclear about the long-term operational financial implications for other authorities.
- 1.4 There will be costs associated with the Councils own vehicle fleet and any contracted services. The City Council will be expected to lead by example and we will not be able waiver charges within the access restriction for Derby City Council vehicles if they are not complaint vehicles. Decisions will have to be made by Council departments about vehicle replacement strategies or if vehicles can be retrofitted. We expect some government grant funding to be available to help with vehicle changes, but it should be expected that there will be an impact on revenue and capital expenditure strategies. The full financial implication will not be fully appreciated until the details of the chargeable access restriction, the extent of the zone, and the charges have been determined.
- 1.5 It is not clear what the implications are for the authority if we fail to meet the deadline of implementing a Clean Air Zone, chargeable access restriction by 2020, or if once implemented air quality exceedances still take place in Derby. Currently there are no penalties being proposed as part of the draft Statutory Instrument.
- 1.6 DEFRA has previously published an assumption that the implementation of a Clean Air Zone would have no impact on the activities of businesses within the zone. Currently it is very difficult to quantify these economic implications for local businesses and customers.

## **Legal**

- 2.1 The government is expected to publish the statutory instrument which will mandate Derby City Council to implement a Clean Air Zone, with a chargeable access restriction by 2020, under the Transport Act 2000. We do not yet know the specific details of the charging levels or the specifics of the process of implementation.
- 2.2 The provisional working option does not commit the Council to specifically implement this option. Although the intention is to engage with the public and key stakeholders, this is not intended to be formal consultation. We expect that we will have to submit our final proposed option within 12 months of the statutory instrument been made. Under the current DEFRA published timetable this could be April 2018. When submitting the draft scheme we will need to have:
- completed the consultation on the scheme,
  - completed any changes to the draft charging scheme following consultation comments, and confirmation that that no inquiry is being held, or if it is required, or that it has taken place.
- 2.3 At the moment there is no information about what will happen if we fail to meet the timetable or the deadline for implementing the chargeable access restriction by 2020. Throughout the discussions with DEFRA we have raised concerns about the timescales for key elements of the project including:
- assessment of options and associated risks, including the ability to consider non-charging options,
  - adequate consultation, especially with those that will be affected by any proposals, and implementation, including the ability for those affected by the access restriction to take any necessary action i.e. vehicle fleet changes to compliant vehicles.
- 2.4 DEFRA has not provided any information on where future liability will rest. It is not clear what happens if we implement the access restriction (following approval by Secretary of State) and it does not resolve the predicted air quality exceedances.
- 2.5 There is uncertainty over the implications of leaving the EU and the High Court legal challenge case between ClientEarth and DEFRA.

## **Personnel**

- 3.1 This project has implications for various sections of the authority including procurement, fleet management, taxi licensing and planning. The implications of the project need to be raised with the relevant sections in order for them to be able to consider the implications and take any appropriate action prior to 2020.

## Classification: OFFICIAL

- 3.2 It is probable that additional staff resources will be required to deliver the project or specific elements. DEFRA has indicated that they will provide financial support, but the Council will have to bid for funding.

## IT

- 4.1 The access restriction will be reliant on the implementation of relevant IT infrastructure to administer the project and to enable an appropriate level of enforcement to take place to facilitate compliance with the restriction.

## Equalities Impact

- 5.1 The Air Quality project will raise a number of issues in respect of equality including:
- Blue Disabled badge holders and the considerations regarding the access restriction
  - “*Vehicles that are disabled passenger vehicle tax class*” which are specifically mentioned in the documents, and
  - the particular effect on small businesses, including bus operators, owner operator taxis and local businesses and the implications on their deliveries and services.
- 5.2 As the project progresses and the details of the proposal are confirmed it will be necessary to do further work on the equality impact issues. It is proposed that the Council will work with a range of stakeholders to access funding to assist with transitional arrangements.

## Health and Safety

- 6.1 The Council wants to do everything it can reasonably do to protect the health and wellbeing of people who live, work or visit the City and as the project develops it is likely to include a range of initiatives that can play a part in this process. However it must be recognised that the necessary resources need to be made available to take these initiatives forward and there needs to be widespread recognition of the issues and general support for any actions.

## Environmental Sustainability

- 7.1 The Clean Air Zone, chargeable access restriction, and complementary measures will include a range of options to help promote sustainable travel. The Council is already investing in some of these initiatives such as active travel, low emission vehicles, and travel planning; however further consideration of measures to help address the air quality exceedances will require the appropriate level of resources and evidence of the effectiveness of the separate measures.



## **Property and Asset Management**

- 8.1 There are implications with Derby City Council's vehicle fleet and the draft framework document states that "Local authorities.....operating within the Clean Air Zone should ensure the fleet they operate, or is operated on their behalf,.....meets the standards for the zone". The implications of the need to lead by example, including through our own procurement processes and understanding the air quality implications of all vehicle use by the authority needs to be taken into account.

## **Risk Management and Safeguarding**

- 9.1 The move towards a Clean Air Zone for Derby will bring benefits for health, but it will also bring challenges both for local people and local businesses. The impact assessment makes some statements on the effects to businesses, bus operators and other stakeholders. Due to the limited information available at the current time it is not clear exactly what could be the full affect local on businesses and public transport operators in Derby.

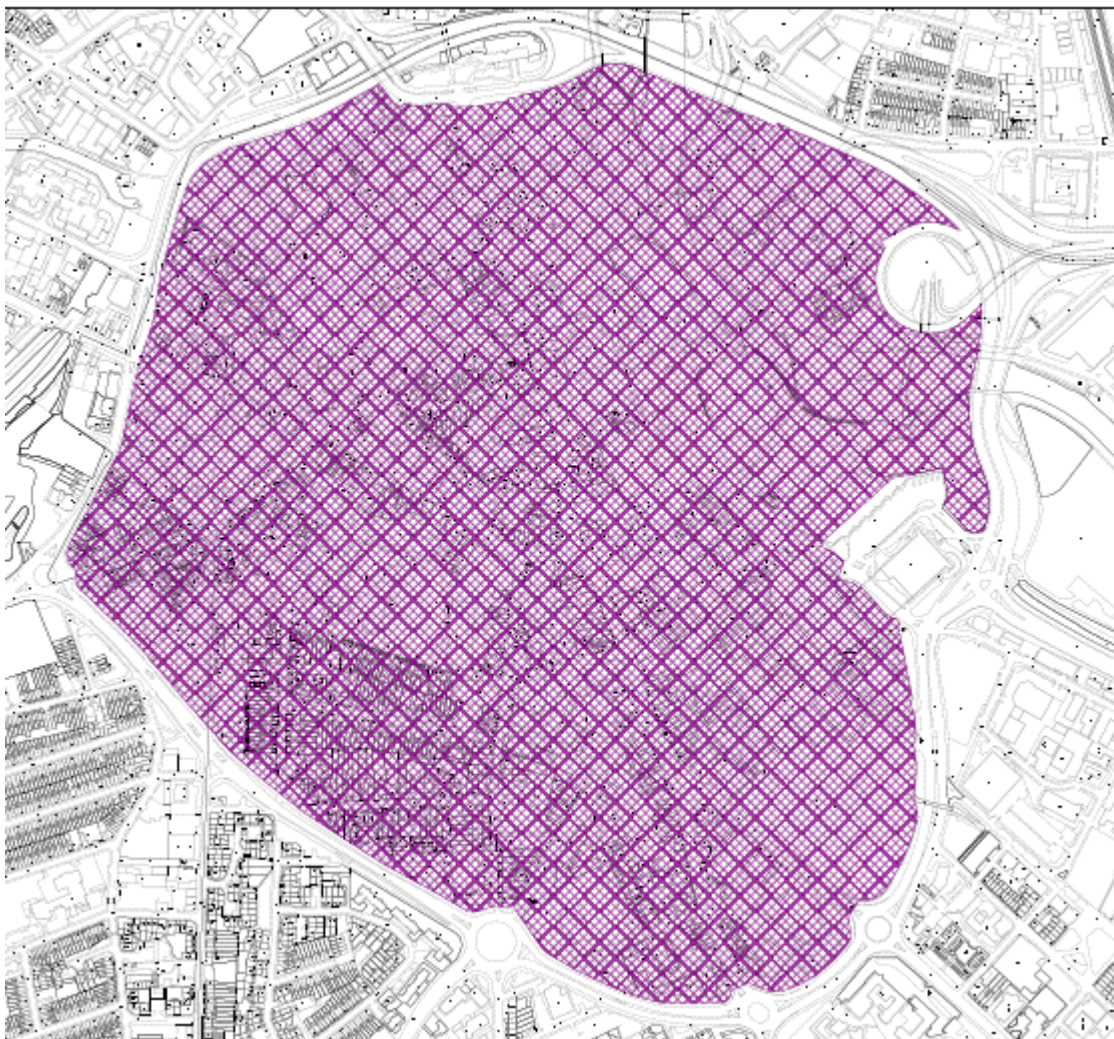
## **Corporate objectives and priorities for change**

- 10.1 This project will contribute towards creating for the people of Derby:
- An inspiring place to live by improving inner city areas



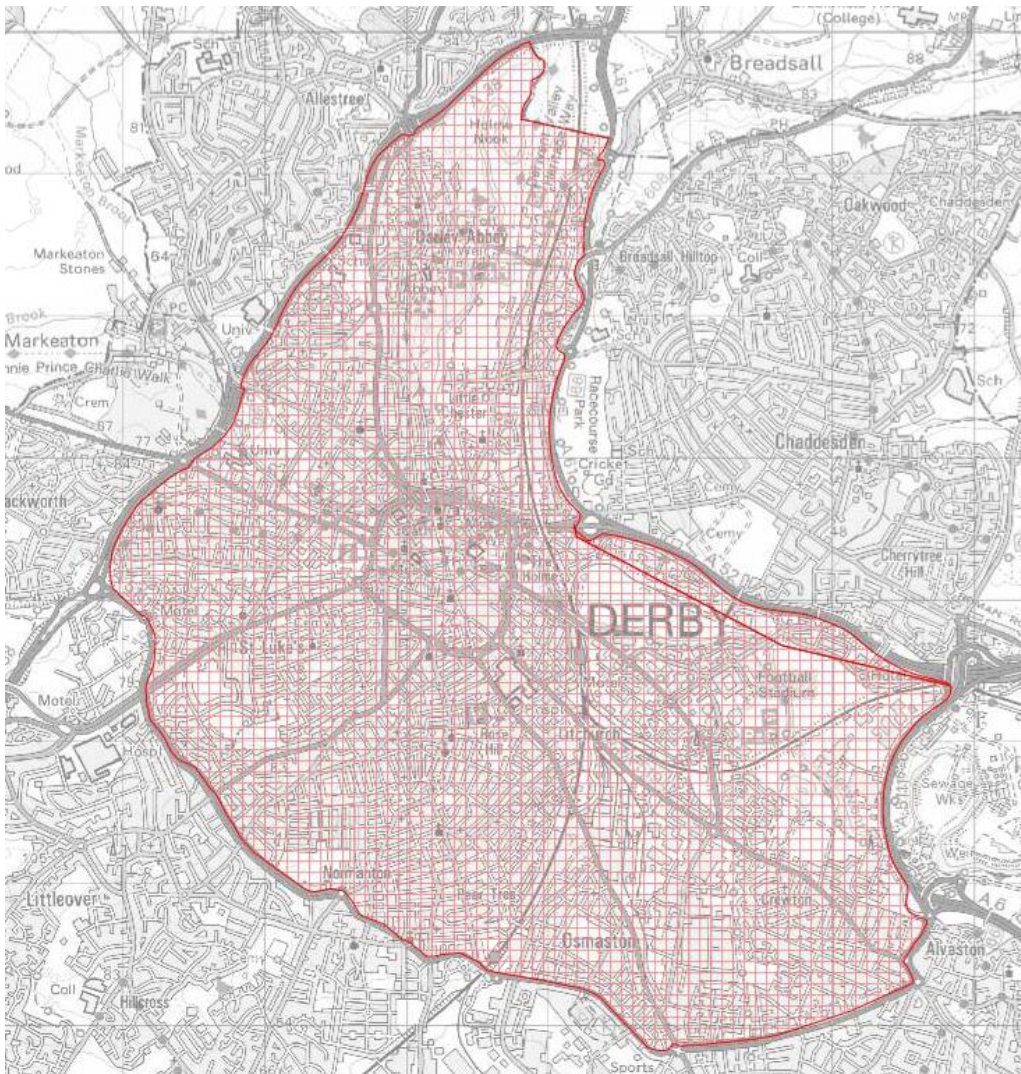
Clean Air Zone class	Vehicles included
B	Buses, coaches, taxis (hackney carriages and private hire vehicles) and heavy goods vehicles (HGVs)

**Phase 1 – Working Option - Inner Ring Road Class B Clean Air Zone Access Restriction**



Classification: OFFICIAL

### Phase 2 – Working Option - Outer Ring Road Class B Clean Air Zone Access Restriction



Classification: OFFICIAL