

Report of the Assistant Director – Housing and Community Safety

**Adoption of York’s Third Air Quality Action Plan (AQAP3) -  
Response to Economic Development and Transport Policy and Scrutiny  
Committee Calling In**

**Summary**

1. On 18 November 2015 York’s third air quality action plan (AQAP3) was considered by the Economic Development and Transport Policy and Scrutiny Committee (EDAT), but was first called in by Councillors D’Agorne, Kramm and Craghill. The report was submitted following public consultation.
2. Having listened to the comments and concerns of EDAT members the Executive Member for Environment deferred his Decision Session to allow time for suggested improvements to be assessed by officers and for the information presented at the EDAT meeting to be taken onboard. This report summarises the response to the calling in and to comments and issues raised at the scrutiny committee, outlined in paragraphs 3 to 26.

**National Air Quality Action Plan and potential fines**

3. The UK Government is required by the European Commission infringement proceedings and the Supreme Court ruling of 29 April 2015 to submit a revised National Air Quality Action Plan (NAQAP) to the European Commission by 31 December 2015. The NAQAP must aim to achieve compliance with the EU limit values for Nitrogen Dioxide (NO<sub>2</sub>) as quickly as possible in all UK zones via a new and improved set of air quality improvement measures. DEFRA recently consulted on the draft NAQAP<sup>1</sup>. York has not been highlighted as one of the zones unlikely to comply as NAQAP is based on limited monitoring and modelling information, unlike the detailed monitoring undertaken in York.

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<sup>1</sup> Consultation on draft plans to improve air quality, Tackling nitrogen dioxide in our cities (DEFRA, September 2015) <https://consult.defra.gov.uk/airquality/draft-aq-plans>

4. The draft NAQAP includes proposals for a national network of low emission zones called Clean Air Zones with entry requirements of Euro IV petrol and Euro VI diesel. These should not be confused with the Clean Air Zone proposed in AQAP3 that is targeted at polluting diesel buses.
5. The draft NAQAP was considered by air quality officers within the Public Protection Regulatory Support and Advice team. DEFRA modelling assumes that Euro VI emission standards will deliver the expected level of emission reduction from new vehicles over the next five years. There is currently limited evidence available on the performance of Euro VI vehicles. However, recent testing of Euro VI diesel cars and other vehicles has shown that many of these fail the emission tests in both the laboratory and real world driving conditions. In addition, the recent VW scandal has demonstrated that reliance on Euro emission standards for delivering air quality improvement is a risky strategy. Higher than expected levels of NO<sub>2</sub> emissions from Euro V diesel vehicles are known to be one of the main reasons for the current continued exceedance of national air quality objectives in York. York submitted a detailed response to the NAQAP consultation<sup>2</sup>.
6. Whilst the UK Government is responsible for ensuring compliance with EU limit values, DEFRA has written to all local authorities warning that infraction fines would be passed on to local authorities using a discretionary power in Part 2 of the Localism Act. No details have been released about how these fines will be imposed, but it is understood they will be recurring annual fines.

### **Reducing emissions from buses – Clean Air Zone**

7. Source apportionment studies in York have identified diesel buses as being a significant contributor to poor air quality in York. Complaints are also received from members of the public about dirty diesel buses. AQAP3 proposes a Clean Air Zone (CAZ) in the city centre with entry requirements based on a combination of bus emission standards and the frequency at which they enter the city centre. The most frequent services (those entering the CAZ more than 10 times a day) would be required to be ultra low emission in the city centre by 2018.

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<sup>2</sup> <http://www.jorair.co.uk/documents/response.pdf>

8. Although ultra low emission buses are cheaper to operate than diesel fuelled buses they are more expensive to purchase. The council has been very successful in recent years with bids to fund the introduction of electric buses in York, including two of the Park & Ride services, and retro-fitting of diesel buses with electric drive. York has recently submitted a bid to the Office of Ultra Low Emission Vehicles (OLEV) to enable the remaining Park & Ride buses to become ultra low emission. The council will continue to work with bus operators to bid for funds to support the transition to ultra low emission buses in York.
9. Whilst proposals for a CAZ have been discussed with bus operators for several years, the CAZ in York city centre would, subject to an economic impact test, commence in 2018 to allow bus operators sufficient time to upgrade their fleet to ultra low emission buses and to install the associated infrastructure. By this date, 82% of all bus journeys would be made by ultra low emission buses. Ultra low emission buses would be used on around 20 routes including the Park & Ride services and the most frequent bus routes.
10. Less frequent services would be set minimum Euro emission standards with a longer term upgrade programme allowing them to work towards ultra low emission capability. The CAZ could potentially be expanded in the future to include other vehicle types.
11. All the proposals for a Clean Air Zone in the city centre are subject to additional funding, an economic impact test and further consultation.
12. Proposals for a CAZ for buses are on the basis of a number of source apportionment, cost benefit analysis and feasibility studies. Whilst a CAZ could be considered for freight, in tandem with the freight transshipment centre, it would not be practical for cars and light goods vehicles, where a simple Low Emission Zone would be more practical, if desired in the future. In any event, sufficient time would be needed to enable commercial operators to transition their fleet to ultra low emission vehicles.

### **Reducing emissions from buses – anti idling**

13. A CAZ will mean about 82% of city centre bus journeys will be undertaken by ultra low emission buses by 2018, rising to 85% in 2021 and 87% in 2024. Where diesel buses are still in service, AQAP3 proposes a progressive approach to dealing with idling, with measures including working with bus operators to adhere to their existing anti-idling policies; erection of signage, warnings by enforcement officers and

potential fines. The results of the consultation on AQAP3 favoured a more robust approach.

14. The Department for Transport's guidance on dealing with idling vehicles has previously stated "we expect you will need to issue very few (if any) fixed penalties (the vast majority of drivers will agree to switch off their engines when asked)". The anti idling feasibility study of 2014 concluded that emissions could be reduced significantly through anti idling signage, further information and advice to bus operators and some on the street spot checks. This emission reduction was based upon the bus fleet in 2012. A number of potential anti idling zones were identified in the report where anti idling signs could be erected and spot checks undertaken.
15. The costs of signage and enforcement will need to be considered in implementing such a scheme. Previous discussions were around the availability of Better Bus Area Funding for signage with enforcement undertaken by the bus wardens, or potentially parking wardens or community enforcement officers. As the bus fleet transitions to ultra low emission, then bus emissions from idling will become less of an issue.
16. It is recommended that a further report be brought forward to identify the issues around the costs of signage and enforcement and the implications of adopting powers under The Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002<sup>3</sup> to allow enforcement against idling buses (and other vehicles) in the event that other measures prove unsuccessful.

### **Reducing emissions from development**

17. Low emission planning guidance is applied to all new developments in the city to minimise their emissions and this is currently being developed across the Yorkshire region.

### **Reducing emissions from taxis**

18. A bid to OLEV is planned to enable York to continue our local incentive scheme that encourages taxi drivers to switch to hybrid / electric vehicles. Improvements to the taxi licensing system to further encourage the use of ultra low emission vehicles in the taxi fleet are currently under discussion with the taxi licensing team.

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<sup>3</sup> <http://www.legislation.gov.uk/ukxi/2002/1808/part/4/made>

## **Walking, cycling and car sharing**

19. Walking, cycling, car sharing and the i-Travel programme are strongly supported in terms of improving air quality and for other reasons, and are mentioned in the report; however, they do not form part of AQAP3 as they are already within York's third local transport plan (LTP3). It is recognised that delivery of many of these measures and measures within the Low Emission Strategy are currently funded via the Local Sustainable Transport Fund (LSTF) that ends on 31 March 2016. If these programmes are to continue they will require funding via new sources such as the Ultra Low Emission Cities (ULEC) bid to OLEV.

## **Freight and fleet**

20. The Eco-Stars scheme gives free advice to commercial and council fleets to improve their fuel efficiency, reduce emissions and save money. There is currently no active recruitment of new members (or indeed support for existing members) of Eco Stars due to funding; the scheme can only continue if additional funding can be obtained. Adoption of Eco Stars as a requirement in all council contracts would be welcomed but will require support from procurement and additional funding.
21. A freight transshipment / consolidation centre with an associated compressed natural gas (CNG) refuelling facility is a major project with significant resource implications. However much of the ground work has already been done in terms of feasibility studies, expert advice, identification of a suitable location and discussions with the private sector for provision of CNG refuelling). The key hurdle for the private sector to take this project further will be to secure anchor contracts within the city and the region, the demand for which is unclear at this time and therefore officers are recommending further development of the business case for the facility.

## **Marketing and communications**

22. Raising public awareness of poor air quality and its impact on public health is a key measure within AQAP3. One measure would be the provision of up to date air quality information to enable people, especially the vulnerable, to make informed decisions about their daily activities including travel, to minimise exposure to pollution. An air quality index is a number used to communicate to the public how polluted the air currently is, or how polluted it is forecast to become. A daily Air Quality Index (AQI) value for all City of York Council's real-time air quality monitoring sites can be viewed at <http://www.airqualityengland.co.uk/local->

[authority/?la\\_id=76](#). This type of technology or similar could be adapted to a phone app in the future. However recent research by Swansea University has shown an increase in emergency admissions to hospital following the introduction of an air alert system.

## **Other measures**

23. A number of comments are listed on page 44 of the AQAP3 report of 18 November 2015. Many of these are the responsibility of the transport department and have been referred to them for consideration. Raising awareness of air pollution and its impact on health forms part of the marketing and communication strategy. The air quality team has reduced resources to deliver these measures and funding of the low emission officer post ends on 31 March 2016. Provision of further electric and ultra low emission buses are supported providing funding allows, but there are no current resources or funding to consider emissions from the NRM road train, large sightseeing boats and the provision of a free electric bus service.
24. The impact of green infrastructure in reducing emissions and its other benefits are covered in the report. However, provision of a Green Infrastructure Strategy is the responsibility of the Planning and Environmental Management team.

## **Diesel emissions**

25. In June 2012 the World Health Organization (WHO) classified diesel engine exhaust as carcinogenic to humans and said everyone should reduce exposure to diesel exhaust emissions. AQAP3 was written on the understanding that diesel emission abatement technology regulation had failed. Recent months have confirmed that the laboratory testing of vehicles does not represent real world driving conditions and even these tests have been cheated by some vehicle manufacturers. Real world testing of Euro VI diesel cars has shown that few comply with the emission standards. AQAP3 is written on the premise that incremental improvement across the wider vehicle fleet through progressive Euro standards has been and will continue to be insufficient to improve air pollution.

## **Monitoring and scrutiny**

26. Nitrogen dioxide (NO<sub>2</sub>), the main pollutant of concern in York, has an annual average air quality objective. DEFRA has just published the results of its final consultation on air quality management. This requires local authorities to produce an "Annual Status Report" on air quality. It

would therefore be appropriate to report progress on air quality to the executive member and scrutiny committee on an annual basis.

## Options

27. **Option 1** - To accept the findings of the AQAP3 consultation and the resulting amendments to the consultation draft AQAP3. To formally adopt the amended AQAP3 presented to the executive member for the environment on 18 November 2015.
28. **Option 2** – To accept the following revisions recommended by EDAT:
- (i) To produce a further report outlining the resources and procedure required to adopt powers under The Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002<sup>4</sup> to allow enforcement against idling buses (and other vehicles) in the event that other measures are unsuccessful.
  - (ii) To recommend the adoption of Eco Stars to the Executive by further report (or an equivalent scheme) to be a requirement in all council contracts.
  - (iii) To commission a business plan for a freight transshipment / consolidation centre.
  - (iv) To report progress on meeting the air quality objectives and implementing the measures within AQAP3 via an “Annual Status Report” to the executive member and scrutiny committee on an annual basis.
  - (v) Following further consultation with bus operators and others, to produce a report detailing the proposals for implementing a CAZ, including an economic impact test, details of funding and impact on the environment and health.
29. **Option 3** - To reject the findings of the AQAP3 consultation and the resulting amendments to the consultation draft AQAP3. To defer formal adoption of the amended AQAP3 until further consultation / further amendments as requested at this meeting have been completed.

## Analysis

30. Option 1 will ensure York continues to have a robust, current and relevant AQAP based on a strong local emission evidence base. This will facilitate continued delivery of the aims and objectives of the LES. AQAP3 measures will deliver emission reduction and health improvement benefits throughout the city and should deliver the national

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<sup>4</sup> <http://www.legislation.gov.uk/ukxi/2002/1808/part/4/made>

air quality objectives for NO<sub>2</sub> at most locations in York by 2021. Adoption of AQAP3 will demonstrate to DEFRA that York is continuing to strive to improve air quality in the city and may reduce the possibility of substantial air quality fines in the future. AQAP3 will ensure that York continues to attract low emission vehicles, technologies and associated jobs ahead of other local authorities and having a newly adopted LES based AQAP3 in place will strengthen York's bid to become one of OLEV's designated ultra-low emission cities.

31. Option 2 will strengthen AQAP3, monitoring and scrutiny of its' delivery and progress in achieving the air quality objectives, but has additional funding and time implications.
32. Option 3 will further delay the timetable for formal adoption of a new AQAP for York. This will reduce and slow down delivery of the LES resulting in higher emissions in the city and greater health impacts. This would damage York's reputation with DEFRA as a high achieving authority in relation to air quality and reducing emissions and could make the council vulnerable to substantial fines from DEFRA. Delaying adoption of AQAP3 may result in lost opportunities for attracting low emission vehicles, technologies and associated jobs and will weaken York's ability to attract millions of pounds of ultra-low emission city funding.

## Council Plan

33. The council plan aims to deliver a prosperous city for all. Steps taken to improve air quality will be a key indicator of the progress made in delivering the plan. AQAP3 supports the council plan as follows:
  - **Help residents to live healthier lives so that they can contribute fully to their communities, reach their full potential and retain good quality and well paid jobs** - Good air quality reduces the amount of time off work or away from education due to air quality related illnesses, helping to improve personal attainment and ability to contribute to the wider economy. AQAP3 will contribute to quality of life in York by promoting healthy lifestyles and providing safe, pleasant places to live, learn, exercise and meet. Providing better information and advice on air quality and health impacts will empower individuals to make better lifestyle choices and take steps to reduce their own exposure to air pollutants reducing hospital admissions and costs to the NHS.



- **Encourage and supporting a green economy** – accelerating the uptake of alternatively fuelled vehicles in York will stimulate the market for supply and maintenance of new vehicle technology and refuelling infrastructure. This will attract new manufacturing and service industries to the area creating new ‘green’ jobs and training opportunities. There is also potential for developing a ‘green’ tourism offer based around low emission travel opportunities. Providing alternative vehicle fuel infrastructure is essential to ensure York retains transport links with other cities as alternative technology penetrates the mass vehicle market. The use of alternatively fuelled vehicles can also offer considerable financial savings to local businesses helping them to thrive.
- **Provide efficient and affordable transport links** – AQAP3 will deliver cleaner, more attractive, quieter and reliable public transport in York, resulting in increased patronage and a further reduction in private vehicle trips. The total cost of ownership of low emission technologies can be substantially lower than diesel due to much lower fuel cost. Where initial investments are higher, leasing arrangements can enable financial benefits from the outset. These fuel savings could be used by operators to limit the need for further increases in public transport fares.
- **Help to deliver an environmentally sustainable city** – AQAP3 will help to ensure the city can continue to grow without an unacceptable impact on local air quality, carbon emissions and health. New low emission planning guidance will help to ensure that emissions from new developments are mitigated as far as possible whilst still allowing the creation of new jobs and homes.
- **Help to protect and support York’s unique heritage** – air pollution damages buildings as well as people. Improving air quality will help to protect the city’s many historic buildings and support tourism.

## Implications

34. The various implications of this report are summarised below:

- (a) **Financial** – Implementing the measures within AQAP3 will require both capital and revenue funding. AQAP3 measures are identified as being low, medium or high cost. It is envisaged that all low cost measures (<£40k) will be deliverable from within existing budgets, mainly the LTP3 capital programme and air quality grant funding.

Medium cost measures (£40K to £100k) will require additional funding above and beyond current resources. It is anticipated that the majority of this funding will be obtainable from additional government grant opportunities and private investment. The high cost measures > £100k will need significant additional investment from either the private sector or from grant funding. If successful, the OLEV ultra low-emission city, bus and taxi bids will provide funding to support many of the medium cost measures. If the OLEV bids are unsuccessful most of the high cost measures are unlikely to proceed. Any request for funding will follow the council's budgetary (capital & revenue) process. Approving this report does not commit further funding to support the delivery of the AQAP3.

- (b) **Human Resources (HR)** – The delivery of AQAP3 requires a cross-directorate approach that is currently co-ordinated by the low emission officer with support from air quality, transport and fleet colleagues. The low emission officer post is a temporary post currently funded through the LSTF programme and is due to end in March 2016. Timescales for delivering AQAP3 measures assume that the low emission officer post (and existing staffing levels) will continue until at least 2021. If funding to support current staffing levels until 2021 cannot be found it is likely that some if not most of the measures in AQAP3 will become unachievable or will be delivered later than stated. Specific departmental responsibility for the delivery of each LES measures is clearly identified within the draft consultation LES.
- (c) **Equalities** – A community impact assessment has been undertaken for AQAP3 Older people, children, pregnant women and vulnerable people with respiratory and other illnesses are more likely to be adversely affected by poor air quality. LES measures aim to mitigate the health effects of poor air quality.
- (d) **Legal** - AQAP3 is a statutory document. CYC has a statutory duty to periodically review the air quality within its area both at the present time and as regards future air quality. There is a duty to designate an AQMA where air quality objectives are not being achieved or are not likely to be achieved. Once an area has been designated there is a duty to carry out an assessment and prepare an air quality action plan (AQAP) for the area. DEFRA have issued statutory guidance to which the Council must have regard in exercising these functions. This includes annual reporting on progress with delivery of AQAPs and refreshing of AQAPs when necessary.

The implementation of AQAP3 will involve the use of other legal powers such as traffic regulation and planning powers, and their use will need to be considered on a case by case basis.

Having consulted the public on the contents of AQAP3, in making its decision the Executive Member is under an obligation to pay due regard to the comments received.

- (e) **Crime and Disorder** – There are no crime and disorder implications
- (f) **Information Technology (IT)** – There are no IT implications
- (g) **Property** – There will be a requirement to install electric vehicle recharging infrastructure in some council owned car parks, offices, housing and leisure facilities. There will also be a need to consider in more detail the suitability of biomass technology for use in council owned buildings, particularly schools and residential care homes where vulnerable receptors are likely to be located close to the emission source.
- (h) **Other** – There may be highways implications associated with implementing a CAZ within the city centre. A CAZ will also need the support of the Traffic Commissioner. This will be explored, consulted upon and fully reported to members before any CAZ is established.

The implementation of AQAP3 will include a significant change to the way planning applications are assessed in relation to air quality impacts. Currently most large planning applications are only assessed on the basis of the resultant change in local air quality concentration they are likely to cause. In future, the emphasis will be on the total emissions arising as a result of a new development and how these will be mitigated, both on and off site. The aim is to reduce emission 'creep' across the city arising from the cumulative impact of development. Further consultation on this approach will be needed at a local level to ensure it is fully compatible with the emerging Local Plan.

New technical low emission planning guidance has recently been drawn up for the city with assistance from the Low Emission Partnership. The methodologies are currently being tested on suitable planning applications and the technical note is being converted into a more public facing document prior to a wider

consultation taking place. The methodologies build on the approach to low emission planning already widely adopted in West Yorkshire.

## **Risk Management**

35. In compliance with the Council's risk management strategy, failing to meet the health based air quality targets, considering the likelihood and impact, the current net risk rating is 21 or High. The continued implementation of the LES and adoption and implementation of AQAP3 should reduce the risk to Medium.

## **Recommendations**

36. In light of and having analysed the scrutiny calling-in comments, the Executive Member is advised to:

### **Approve Option 2:**

- (i) Accept the findings of the AQAP3 consultation and undertake the additional actions requested by EDAT as outlined in this report; and as a result:
- (ii) Formally adopt the amended AQAP3, as a result of the consultation process, as York's Third Air Quality Action Plan (subject to any further minor amendments requested at this meeting)

**Reason:** This option will ensure that York continues to have a robust, current and relevant AQAP based on a strong local emission evidence base. This will facilitate continuing delivery of the aims and objectives of the LES. AQAP3 will deliver emission reduction and health improvement benefits throughout the city and by 2021 should deliver the national air quality objectives for NO<sub>2</sub> at most, if not all, locations in York. Adoption of AQAP3 will demonstrate to DEFRA that York is continuing to strive to improve air quality in the city and may reduce the possibility of substantial air quality fines in the future. AQAP3 will ensure that York continues to attract low emission vehicles, technologies and associated jobs ahead of other local authorities and having a newly adopted LES based AQAP3 in place will strengthen York's bid to become one of OLEV's designated Ultra-Low Emission Cities. If successful this bid will attract millions of pounds of investment in low emission vehicles and infrastructure to York from 2016 onwards.

## **Contact Details**

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**Report** ✓ **Date** 2<sup>nd</sup> Dec 2015  
**Approved**

### **Specialist Implications Officer(s)**

None

### **Wards Affected:**

**All X**

**For further information please contact the author of the report**

### **List of Acronyms and Abbreviations**

AQAP	Air Quality Action Plan
CAZ	Clean Air Zone
CNG	Compressed Natural Gas
DEFRA	Department for the Environment, Food and Rural Affairs
EDAT	Economic Development and Transport Policy and Scrutiny Committee
EU	European Union
LES	Low Emission Strategy
LSTF	Local Sustainable Transport Fund
LTP	Local Transport Plan
NAQAP	National Air Quality Action Plan
NO2	Nitrogen dioxide
NRM	National Railway Museum
OLEV	Office of Ultra Low Emission Vehicles
ULEC	Ultra Low Emission Cities
WHO	World Health Organization

## Background Papers

Decision Session – Executive Member for the Environment: 18 November 2015 Adoption of York's Third Air Quality Action Plan (AQAP3)

<http://democracy.york.gov.uk/ieListDocuments.aspx?CId=870&MId=9131&Ver=4> (agenda and draft minutes)

Other background papers:

- A draft framework for York's Third Air Quality Action Plan (AQAP3) 2014 to 2020 – Decision Session Cabinet Member for Transport, Planning and Economic Development (30 October 2014)
- Air Quality Update - Decision Session Cabinet Member for Transport, Planning and Economic Development (14 November 2013)
- Air Quality Update - Meeting of Cabinet Member for City Strategy and Air Quality (June 2012)
- Adoption of a Low Emission Strategy for York - Cabinet (9 October 2012)
- Low Emission Strategy Consultation -- Cabinet (3 April 2012)
- Air Quality Update – Meeting of Cabinet Member for City Strategy and Air Quality (5 January 2012)
- Draft Framework for York Low Emission Strategy - Executive (15 March 2011)
- Air Quality Update – Executive Member for Neighbourhoods (16 Nov 2010)
- City of York's Local Transport Plan 3 – Draft 'Framework' LTP3 – Decision Session Executive Member City Strategy (5 Oct 2010)
- A Low Emission Strategy for York - Executive Member for Communities and Neighbourhoods (8 June 2010)
- Low Emission Strategies – Using the Planning System to reduce transport emissions – DEFRA Good Practice Guidance (January 2010)