

# Birmingham City Council

## Report to Cabinet



22 March 2022

**Subject:** Creation of a Clean Air Zone Clean Air Fund  
**Report of:** Strategic Director of Place, Prosperity & Sustainability  
**Relevant Cabinet Members:** Councillor Waseem Zaffar –Transport and Environment, Councillor Tristan Chatfield – Finance and Resources

**Relevant O & S Chairs:** Councillor Liz Clements – Sustainability and Transport  
Councillor Mohammed Aikhlaq – Resources

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Are specific wards affected?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No – All wards affected
If yes, name(s) of ward(s):		
Is this a key decision?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, add Forward Plan Reference: 009854/2022		
Is the decision eligible for call-in?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, provide exempt information paragraph number or reason if confidential:		
Not applicable		

### 1 Executive Summary

- 1.1 This report seeks approval to create a Clean Air Zone (CAZ) Clean Air Fund, which is in line with the defined priorities for the use of net surplus revenues as set out in Article 16 and Annex 5 of the Birmingham Clean Air Zone Charging Order 2021 made on 26 April 2021.
- 1.2 The CAZ Clean Air Fund will utilise net surplus CAZ revenue in order to provide all wards in Birmingham with £0.020m per annum for single member wards (£0.740m per annum) and £0.040m per annum for wards with two members (£1.280m per annum).

annum) per annum for an initial period of up to two years, starting in financial year (FY) 2022/23.

- 1.3 The funding is to be used in line with the priorities set out in the Birmingham Clean Air Zone Charging Order which are to deliver a localised catalogue of measures that can be employed to deliver locality-based initiatives that address specific air quality challenges. These measures could include, but are not limited to, the following: cycle bays; school traffic exclusion plans; sustainable transport measures, parking restrictions etc.
- 1.4 If any additional funding becomes available, its application will be subject to the Council's Governance processes.

## **2 Recommendations**

- 2.1 Approve the allocation of surplus CAZ revenues of up to £4.040m over a two-year period for the purposes of creating a CAZ Clean Air Fund.
- 2.2 Approve the release of up to £0.060m of development funding to progress the development of the Fund to Full Business Case (FBC).
- 2.3 Delegate approval of the FBC and related reports, including any revised financial appraisal for the Fund to the Strategic Director of Place, Prosperity & Sustainability in conjunction with the Director of Council Management and in consultation with the relevant portfolio holder, up to a maximum value of £5.000m.
- 2.4 Authorise the Acting City Solicitor to negotiate, execute, seal and complete all necessary documentation to give effect to the above recommendations.

## **3 Background**

- 3.1 Birmingham's CAZ commenced operation on 1 June 2021.
- 3.2 The CAZ was introduced in order to reduce the levels of the air pollutant nitrogen dioxide (NO<sub>2</sub>) to within the legal limit in the shortest possible time, as per the direction to the Council from the Secretary of State for the Environment, Food and Rural Affairs in March 2019.
- 3.3 The CAZ was created pursuant to the Transport Act 2000. Part 3 of the Transport Act 2000, schedule 12 para 8, which requires that the 'net proceeds' of a charging scheme shall be applied by the authority "for the purpose of directly or indirectly facilitating the achievement of local transport policies of the authority".
- 3.4 Similarly, it is government policy that the level of any charges should not be set as a revenue raising measure and the purpose of the scheme is not to generate revenue but to encourage improved air quality.
- 3.5 In practice this means that the more vehicles that are compliant with the scheme, the less revenue it will generate.
- 3.6 The priority use for revenues generated by the CAZ is to cover the cost of its operation, including the maintenance of cameras, operational staff etc. It is not

intended that the CAZ should generate substantial surplus proceeds after covering these costs.

3.7 In the event that net surplus proceeds are generated from the scheme these proceeds should be applied to directly or indirectly to facilitate the achievement of relevant local transport policies in accordance with the following high level spending objectives, which are set out in the Birmingham Clean Air Zone Charging Order 2021 (26 April 2021):

3.7.1 support the delivery of the ambitions of the scheme and promoting cleaner air;

3.7.2 support active travel and incentivising public transport use;

3.7.3 support zero emission and sustainable infrastructure and actions in and around the city to improve air quality.

3.8 The Birmingham Clean Air Zone (CAZ) update to Cabinet (19 January 2021) estimated that over its projected lifetime the scheme would generate surplus revenues of (i.e. in excess of its operating costs) approximately £40.000m. In its first year of operation (2021/22) the 'useable' reserve was estimated to be £2.322m.

3.9 This report also highlighted a number of prioritised uses of any net surplus revenues, should they eventuate. These uses included:

- Gap funding for a pilot of hydrogen buses (£3.355m)
- City centre pedestrianisation and public realm improvements (£8.591m)
- Upgrade of University Rail Station (£3.400m)
- Delivery of the new Camp Hill Rail Stations (£5.218m)
- Delivery of Cross City bus projects (£4.225m)
- Creation of a Clean Air Fund (£4.100m)

3.10 The majority of the prioritised uses have committed allocations of revenues (as set out above) as a result of a number of reports to Cabinet, with the exception of the creation of a Clean Air Fund.

3.11 The latest estimates of CAZ revenues for FY2021/22 (up to the end of period 9 and as reported to Cabinet on 08 February 2022) suggest that the levels of 'useable' reserve for 2021/22 are more likely to be in the region of £19.301m.

3.12 This increase in 'useable' is due to the deferral of elements of the city centre pedestrianisation scheme from 2021/22 to 2022/23. This accounts for an increase in useable reserve in the current financial year of £5.835m. It should be noted that the current level of useable reserves is sufficient to support future commitments.

3.13 On that basis the CAZ scheme is bringing forward a recommendation to create a CAZ Clean Air Fund.

3.14 The Fund will provide all wards in Birmingham with £0.020m per annum for single member wards (£0.740m per annum) and £0.040m per annum for wards with two

members (£1.280m per annum) per annum for an initial period of up to two years, starting in FY2022/23.

- 3.15 The Fund will be used in line with the priorities set out in the Birmingham Clean Air Zone Charging Order, which are to deliver a catalogue of measures that can be employed to deliver locality-based initiatives that address specific air quality challenges.
- 3.16 The Fund will also be used in accordance with the various measures set out in a Council resolution on 11 January 2021. This resolution included support for measures such as improved partnership working with schools and parents in order to minimise the number of trips to school made by private car and improved partnership working with the West Midlands Police to ensure the enforcement of existing rules and around parking and stationary vehicles with idling engines.
- 3.17 It is also expected that any measures implemented through the Fund would align with the high-level priorities set out in the Brum Breathes Clean Air Strategy (January 2022). These are to:
- Improve the fleet
  - Improve the flow
  - Reduce the volume
  - Reduce sources and exposure
  - Empower behaviour change
- 3.18 Measures implemented through the fund could include, but are not limited to, the following: cycle bays; school traffic exclusion plans; sustainable transport measures, parking restrictions etc.
- 3.19 It is also important to note that activity delivered through the Fund would need to avoid duplicating other initiatives that also seek to improve air quality and are being introduced as a result of the Transport & Environment CAZ Programme.

#### **4 Options Considered and Recommended Proposal**

- 4.1 **Option 1 – Do Nothing:** This alternative option to implementing recommendations 2.1 to 2.4 would result in the loss of an opportunity to make use of surplus CAZ revenues in line with the purpose and priorities as defined in the Birmingham Clean Air Zone Charging Order (April 2021).
- 4.2 **Option 2 – Creation of the CAZ Clean Air Fund:** the creation and implementation of a CAZ Clean Air Fund will help to accelerate the delivery of locality-based schemes in all of Birmingham's wards and in doing so help to improve air quality across the whole of the city. This in line with the desired outcomes of the Clean Air Strategy (January 2022).
- 4.3 Based upon the assessment of the two options presented it is recommended that option 2 be taken forward.

## **5 Consultation**

- 5.1 An appropriate level of external consultation for individual schemes will be undertaken in accordance with existing practise including ward councillors, residents, emergency services, schools, businesses, WMCA/TfWM and special interest groups e.g. cycling groups. Consultation will also be undertaken with Sutton Town Council and New Frankley in Birmingham Parish Council where appropriate.

## **6 Risk Management**

- 6.1 Key risks will be defined in the full business case. However, it should be noted that a significant shortage of consultant and contractor resources in the marketplace could impact upon programme delivery and increase project costs. Such risks will be managed by senior Transportation and Highways officers in conjunction with the relevant portfolio holders.

## **7 Compliance Issues**

### **7.1 How are the recommended decisions consistent with the City Council's priorities, plans**

- 7.1.1 The recommendations in this report are consistent with City Council's key policies and priorities as set out in the City Council Plan and Budget 2021-25, Birmingham Connected transport strategy, Birmingham Transport Plan, Local Walking and Cycling Strategy and Infrastructure Plan, and Clean Air/Climate Change Emergency including Route to Zero.

### **7.2 Legal Implications**

- 7.2.1 The Secretary of State for the Department of Environment, Food and Rural Affairs issued a Ministerial Direction in March 2019 which required that the Council implement its plans so that compliance within the legal limit value for Nitrogen Dioxide is achieved in the shortest possible time. The Council remains subject to this Direction.
- 7.2.2 The requirement of air quality compliance was imposed upon the UK by the EU Ambient Air Quality Directive(b) and upon the Council by the Environment Act 1995 (Birmingham City Council) Air Quality Direction 2019
- 7.2.3 The Clean Air Zone has been introduced pursuant to the Transport Act 2000. A Charging Order has been produced and published on 26 April 2021. This order provides the legal basis for the operation and enforcement of the Clean Air Zone. The legislation used to create the Clean Air Zone also sets out the uses of revenues raised through the scheme.

## 8 Financial Implications

8.1.1 Forecasts at Q3 2021/22 indicate a CAZ revenue surplus of £19.3m which will be carried forward into reserve. This is higher than the estimate reported to Cabinet in January 2021 of £2.3m. The additional surplus will be used to fund the proposed £4.1m clean air fund.

8.1.2 The Fund will provide all wards in Birmingham with £0.020m per annum for single member wards (£0.740m per annum) and £0.040m per annum for wards with two members (£1.280m per annum) per annum for an initial period of up to two years, starting in FY2022/23. In addition, the Fund will release an allocation of up to £0.060m to progress the development of the Fund to Full Business Case (FBC), bringing the total allocation to £4.100m

## 9 Procurement Implications

9.1 There are no procurement implications with the recommendations in this report. Contracts for any works will be awarded following a procurement process advertised on Find a Tender, Contracts Finder and [www.finditinbirmingham.com](http://www.finditinbirmingham.com) or using a collaborative framework agreement and approved in accordance with the Council's Constitution and Procurement Governance Arrangements.

## 10 Human Resources Implications (if required)

10.1 In order to support the establishment of the Fund and the delivery of specific projects it is envisaged that additional project delivery officers may be required. Any requirements above and beyond the existing resource within the Transport and Connectivity and Highways services will be highlighted in the full business case.

## 11 Public Sector Equality Duty

11.1 Under Section 149 of the Equality Act 2010 the Council has a statutory duty to have due regard to the need to eliminate discrimination and advance equality of opportunity by ensuring that no dis-benefits are introduced to any persons who share a protected characteristic. The CAZ scheme has an impact on a variety of aspects including the health and well-being and financial capacity of those working, living and visiting the city. The scheme also has an impact upon air quality, congestion, ease of travel within the city and also the capacity of the city's roads which may see an increased volume of traffic in some areas. As such, an Integrated Impact Assessment (IIA) has been undertaken during the feasibility phase which consists of an Equality Impact Assessment (EIA) and a Health Impact Assessment (HIA). As described below:

- **Equality Impact Assessment:** the purpose of this piece of work is to assess the impacts to the various socio-economic groups which inhabit the city. The assessment shows that the largest impact will be to lower income families and those with disabilities. As part of the CAZ programme a number of

mitigation measures have been developed which aim to reduce the impact on the people who fall into these groups.

- **Health Impact Assessment:** the purpose of this piece of work assesses the implications of introducing the various schemes on the health and wellbeing of those people who live, work and visit the city, highlighting the particular impacts on identified vulnerable groups such as, children and disabled people. The output of this assessment showed that the overall health impact would be positive, with areas of high-income deprivation benefitting most. This is partly due to the improvement in vehicle emissions and the indirect benefits of the modal shift towards active travel.

11.2 Equality Assessment (EQUA210) is provided as Appendix A. This document is being kept under review.

## 12 Appendices

Appendix A – Equality Assessment

## 13 Background Documents

- Birmingham Clean Air Zone Submission of Full Business Case and Request to Proceed with Implementation, Cabinet Report 11th December 2018. CMIS Reference 005939/2018
- Tackling Air Quality in Birmingham - Clean Air Zone – Submission of Business Case to Government, Cabinet Report 10th Sept 2018. CMIS Reference 005425/2018 Page 18 of 18
- Clean Air Zone Charging Order and Indicative Allocation of Net Proceeds Report, Cabinet Report 25th June 2019. CMIS Reference 006457/2019.
- Birmingham Clean Air Zone (CAZ) Update to Cabinet on Digital and Physical Infrastructure Development, Air Quality Monitoring, and Income and Expenditure Forecast.: 008212/2020
- Brum Breathes Clean Air Strategy