

# Birmingham City Council

## Report to Cabinet

17 January 2023



**Subject:** Clean Air Zone revenues – update to Cabinet on revenues forecast and allocation of net surplus revenues

**Report of:** Strategic Director, Place, Prosperity and Sustainability

**Relevant Cabinet Member:** Councillor Liz Clements - Transport  
Councillor Yvonne Mosquito - Finance and Resources

**Relevant O &S Chair(s):** Councillor Chaman Lal – Sustainability and Transport  
Councillor Akhlaq Ahmed - 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: 010853/2023		
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, state which appendix is exempt, and provide exempt information paragraph number or reason if confidential:		

### 1 Executive Summary

- 1.1 This report provides an update to Cabinet on forecast net surplus revenues from the Clean Air Zone (CAZ) through to the end of the current financial year (FY) 2022/23 and suggests that they could be in the region of £50.676m.

- 1.2 This report also recommends for approval additional allocations of CAZ net surplus revenues, which are 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). The proposed allocations total £13.250m and are subject to the net surplus revenues from the Clean Air Zone being realised.

## **2 Recommendations**

- 2.1 Approve the allocation of c. £8.250m net surplus revenues from the CAZ for the purposes of accelerating the delivery of schemes associated with the Birmingham Transport Plan, which was adopted by Cabinet on 12 October 2021.
- 2.2 Approve the allocation of c. £3.000m of net surplus revenues from the CAZ to incentivise the adoption of more active modes of travel (such as bikes) and public transport (more specifically bus use).
- 2.3 Approve the allocation of net surplus revenues from the CAZ, of up to £2.000m over two years, to support the work programme of the Council's 'Route to Zero' team.
- 2.4 Delegate approval of the FBCs and related reports, including any revised financial appraisal for the named schemes to the Strategic Director of Place, Prosperity & Sustainability in conjunction with the Director of Council Management and in consultation with the relevant portfolio holders.
- 2.5 Authorise the City Solicitor and Monitoring Officer to 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 revenues 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 supporting active travel and incentivising public transport use;
  - 3.7.3 supporting zero emission and sustainable infrastructure and actions in and around the city to improve air quality.
- 3.8 On 19 January 2021 Cabinet considered a report that forecast net surplus revenues over the lifetime of the scheme could be at least £41.140m. The report also noted that there was a high degree of uncertainty to the forecast and that updates on income and expenditure associated with the scheme would be shared through the Council's quarterly financial reporting.
- 3.9 The report also noted that as new data about the operation of the scheme became available and the underpinning assumptions in the business model were updated further updates to the forecast of net surplus revenues arising from the scheme would be shared with the Council's Cabinet.
- 3.10 In FY2021/22 the scheme generated net surplus revenues of £25.604m. The latest estimate (as at period 7 (P7)) of net surplus revenues for the current financial year is £25.072m, which means that by the end of FY2022/23 the scheme is likely to generate £50.676m of net surplus revenues.

ACTUAL AND FORECAST REVENUES THROUGH TO THE END OF 2022/23			
	Actual	Forecast	Combined Actual & Forecast
	21/22	22/23	21/22 & 22/23
	£000	£000	£000
CAZ Gross Income	(33,508)	(37,402)	(70,910)
Sinking Fund (General)	0	167	167
Central Service Costs	4,316	9,571	13,887
Operating Costs (including Admin)	3,588	2,592	6,180
<b>Net Revenue</b>	<b>(25,604)</b>	<b>(25,072)</b>	<b>(50,676)</b>

- 3.11 Cabinet has previously approved the allocation of net surplus revenues to projects and schemes that support the high-level spending objectives of the scheme with a combined total of £43.900m.

PRIORITY	NON-CAZ PROJECTS	£000
1	Hydrogen Buses	3.289
2	City Centre Pedestrianisation / City Centre Public Realm	15.478
3	Electric / Plug-in Hybrid Vehicles Running Costs (M2c)	1.000
4	University Station	3.400
5	Camp Hill Line Rail Stations	5.218
6	Cross-City Bus Scheme	4.225
7	Pinch Points City Council Match Funding from CAZ	1.500
8	Clean Air City Fund (£20k per Ward)	1.480
9	Clean Air City Fund (£40k for 2 Member Wards)	2.560
10	Transport & Environment CAZ Programme	5.250
11	Transformational Transport Plans up to 2050	500
<b>Total of Non-CAZ Spending Proposals</b>		<b>43.900</b>

- 3.12 The availability of actual operational data from the scheme has helped address some of the uncertainty in the financial model, as highlighted in previous reports to Cabinet. However, there remains a certain amount of volatility around the rate at which revenues from the daily and penalty charge notices will decline over time.
- 3.13 On that basis, the forecast of net surplus revenues over the remaining planned life of the scheme is as per the forecast shared with Cabinet on 19 January 2021.

FORECAST REVENUES THROUGH TO THE PLANNED END OF THE SCHEME (AS AT 19 JAN 2021)					
	Total Forecast as per Cabinet Report 19.01.2021	Total Forecast as per Cabinet Report 19.01.2021	Total Forecast as per Cabinet Report 19.01.2021	Total Forecast as per Cabinet Report 19.01.2021	Total Forecast as per Cabinet Report 19.01.2021
	23/24 £000	24/25 £000	25/26 £000	26/27 £000	Total £000
CAZ Gross Income	(18,697)	(14,343)	(10,572)	(8,552)	(52,164)
Sinking Fund (General)	167	167	167	167	668
Central Service Costs	3,139	2,430	1,812	1,466	8,847
Operating Costs (including Admin)	3,525	3,243	2,990	2,654	12,412
<b>Net Revenue</b>	<b>(11,866)</b>	<b>(8,503)</b>	<b>(5,603)</b>	<b>(4,265)</b>	<b>(30,237)</b>
Adjustment (Percentage)	65%	65%	65%	65%	65%
<b>Net Revenue</b>	<b>(7,713)</b>	<b>(5,527)</b>	<b>(3,642)</b>	<b>(2,772)</b>	<b>(19,654)</b>

- 3.14 On the basis that net surplus revenues through to the end of FY2022/23 are estimated to fully support the current approved allocations and that forecast net surplus revenues between FY2023/24 to FY2026/27 could be at least £19.654m, the Assistant Director, Transport and Connectivity and Cabinet Member for Transport (in line with the delegated authority from the 19 January 2021 report to Cabinet) are recommending the prioritisation of the following additional uses of net surplus revenues, should they be realised.

3.15 These latest proposals are in line with the high-level spending objectives as set out in the Birmingham Clean Air Zone Charging Order 2021 (26 April 2021) and align with the high-level priorities set out in the Brum Breathes Clean Air Strategy (January 2022), which are to:

- Improve the fleet
- Improve the flow
- Reduce the volume
- Reduce sources and exposure
- Empower behaviour change

3.16 The proposed allocations are to provide:

3.16.1 Funding to support the completion or accelerate delivery of projects linked to the latest version of the Birmingham Transport plan – especially those schemes that support active travel and the adoption of public transport. The total allocation of funding to these projects is up to £8.250m.

3.16.2 The specific schemes/projects are:

- City centre traffic cells (implementation of physical measures – including the development of an updated, supporting network signage strategy): £3.000m
- Places for People delivery (Kings Heath and Bournville): contribution to complete delivery and match funding to initiate project: £3.000m
- Enhancements to the active travel fund (tranche 2) schemes: £1.250m
- Measures that support the management of travel demand - expansion of support to workplace travel planning and support delivery of resident parking scheme outside of the CAZ (e.g. Selly Oak): (£1.000m)

3.16.3 Funding to incentivise the use of more active modes of travel (for example bike use) and public transport (more specifically bus use). The funding for this would be up to £3.000m over the next two financial years.

3.16.4 Funding to support the work programme of the Council's Route to Zero team (up to £2.000m) over two financial years. There are clear co-benefits to be achieved through the work to reduce the level of air pollutants from road traffic and an overall reduction in carbon emissions from this source.

<b>ADDITIONAL ALLOCATIONS</b>	<b>£000</b>
City centre traffic cells implementation	<b>3.000</b>
Places for people delivery (Kings Heath and Bournville)	<b>3.000</b>
Active Travel Fund enhancement (Tranche 2)	<b>1.250</b>
Measures that support the management of travel demand	<b>1.000</b>
Incentivisation of active travel and public transport	<b>3.000</b>
Support for the operations of the Route to Zero team	<b>2.000</b>
<b>TOTAL</b>	<b>13.250</b>

- 3.17 It should be noted that this report is exempt from the need for an environment and sustainability assessment on the basis that the report is financial and the use of the revenues would be in support of schemes/projects that would have their own assessment(s).

#### **4 Options considered and Recommended Proposal**

- 4.1 **Option 1 – Do Nothing:** This alternative option to implementing recommendations 2.1 to 2.5 would result in the loss of an opportunity to make use of net surplus CAZ revenues in line with the purpose and priorities as defined in the Birmingham Clean Air Zone Charging Order (26 April 2021).
- 4.2 **Option 2 – Use the net surplus revenues as proposed:** the utilisation of net surplus revenues from the scheme is in line with the high-level spending objectives set out in the Birmingham Clean Air Zone Charging Order, Birmingham Transport Plan and Brum Breathes Clean Air Strategy so support the objective of improved air quality across the city.
- 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 practice 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 for each of the proposed uses. 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 for some of the proposed allocations. 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 and strategies?**

- 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 the 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.

### **7.3 Financial Implications**

- 7.3.1 The forecast of net surplus revenues shared with Cabinet on 19 January 2021 estimated a range of £41.140m to £63.292m over the planned lifetime of the scheme.
- 7.3.2 The lower end of this range was based on the application of an 'adjustment' factor (65%) to the forecast of net surplus revenues. The application of this adjustment factor was to ensure a consistency of approach to that taken with the financial modelling used to inform the Full Business Case (FBC) and to apply a level of prudence when allocating net surplus revenues to prioritised projects.
- 7.3.3 Revenues from the CAZ are generated from two sources. The first of these is the daily fee that applies to a journey through the zone in a vehicle that does not meet the emission standards of the zone and a valid exemption is

not in place. The other source of revenue is the penalty charge that applies for non-payment of the relevant daily fee.

- 7.3.4 The original FBC for the CAZ assumed that 95% of the people who should pay the daily fee would do so within the 13-day payment window. The actual current payment rate is just above 80%. On this basis the volume of PCNs issued has been higher than assumed in the original FBC.
- 7.3.5 The rate of payment of the daily fee has increased since the introduction of the scheme and is expected to continue to increase over time as the scheme matures.
- 7.3.6 The increase in the payment rate is contrasted with a reduction in the percentage of vehicles that are subject to the daily fee. At the launch of the scheme 15.2% of all unique vehicles that entered the zone were subject to the charge. This percentage had reduced to 7.5% at the end of September 2022.
- 7.3.7 The net effect of these two factors is that revenues arising from the daily fee have been relatively flat for the last six months.
- 7.3.8 The volume of PCNs issued has been higher than assumed in the original business case however, the volume of PCNs issued month on month has reduced by 55% since July 2021 when 112,772 PCNs were issued.
- 7.3.9 The original FBC also assumed that revenues generated from a PCN would be fully recovered shortly after the PCN was issued. However, on average, 20% of PCNs are paid within the month they are issued. This increases to, on average, 53% in the fifth month after issue and then continues to increase over time. For example, the current payment rate for PCNs issued in June 2021 is 70.2% and for PCNs issued in July 2021 the payment rate is 66.9%.
- 7.3.10 On that basis while revenue from this source is higher than originally assumed the full recovery of revenue from PCNs is also taking longer than assumed within the FBC. However, this extended timescale does reflect the various statutory opportunities for appeal or challenge.
- 7.3.11 The availability of this operational data has helped to address some of the uncertainty within the Income and Expenditure (I&E) model used in the FBC, especially as it related to the rate at which vehicle compliance may change.
- 7.3.12 It should be noted that revenues from the daily fee and PCNs are still expected to reduce over time as fewer 'non-compliant' vehicles enter the zone.



## **7.4 Procurement Implications**

- 7.5 There are no procurement implications with the recommendations in this report. Approval of any procurement activity arising from the recommendations in this report will be in accordance with the Council's governance procedures.

## **7.6 Human Resources implications**

- 7.6.1 In order to support the establishment of the proposed 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 relevant full business case and we will work with the directorate's People Partner to ensure that we comply with our council's policies and procedures.

## **7.7 Public Sector Equality Duty**

- 7.7.1 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.

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

## **8 Appendices**

- Appendix A: Equality Assessment

## **9 Background Documents**

- Birmingham Clean Air Zone Submission of Full Business Case and Request to Proceed with Implementation, Cabinet Report 11 December 2018. CMIS Reference 005939/2018
- Tackling Air Quality in Birmingham - Clean Air Zone – Submission of Business Case to Government, Cabinet Report 10 September 2018. CMIS Reference 005425/2018 Page 18 of 18
- Clean Air Zone Charging Order and Indicative Allocation of Net Proceeds Report, Cabinet Report 25 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, Cabinet Report 19 January 2021. CMIS Reference 008212/2020
- Birmingham Transport Plan, Cabinet Report 12 October 2021. CMIS Reference: 008947/2021
- Approval of Route to Zero next stage business case: 12 October 2021. CMIS Reference: 008305/2021
- Brum Breathes Clean Air Strategy