



**OPEN REPORT
COMMUNITY AND ENVIRONMENT COMMITTEE**

Community and Environment Committee 16 May 2024

ASHBOURNE AIR QUALITY MANAGEMENT AREA ACTION PLAN AND AIR QUALITY MONITORING

Report of Director of Place and Economy

Report Author and Contact Details

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Wards Affected

Ashbourne North

Report Summary

This report provides a further update in relation to the Ashbourne Air Quality Management Area Action Plan following the meeting of the Community and Environment Committee held on 6 March 2024 and a final warning letter received from DEFRA in respect of the late submission of the Action Plan.

Recommendations

1. The response from Derbyshire County Council Highways on matters of a 20mph zone and weight limits in Ashbourne is noted.
2. The content of the Highways Interventions & Position Summary for Ashbourne provided by Derbyshire County Council is noted.
3. That the final warning letter from DEFRA is noted.
4. That the amended Air Quality Action Plan is approved for submission to DEFRA.
5. To note that an approved Air Quality Action Plan shall be subject to formal annual reporting to DEFRA and subsequently to the Community and Environment Committee, alongside ongoing monitoring by officers and partners.

List of Appendices

- Appendix 1 – Response from DCC (20mph zone & weight limits)
- Appendix 2 – Highways Interventions & Position Summary paper Mr Bennett DCC
- Appendix 3 – Director of Regulatory Services representation to DEFRA
- Appendix 4 – DEFRA response to representation
- Appendix 5 – DEFRA final warning letter
- Appendix 6 – DDDC Ashbourne Air Quality Action Plan (final draft)

Background Papers

Reports to the Community and Environment Committee – 7 April 2021, 23 June 2021, 17 November 2021, 23 February 2022, 29 June 2022, 1 November 2022, 9 February 2023, 13 July 2023, 7 September 2023, 26 October 2023, 7 December 2023, 6 March 2024.

Consideration of report by Council or other committee

Since the declaration of the Ashbourne Air Quality Management Area in April 2021, reports have been considered by the Community and Environment Committee, as detailed under the Background Papers heading above.

Council Approval Required

No.

Exempt from Press or Public

No

Ashbourne Air Quality Management Area Action Plan and Air Quality Monitoring

1. Background

1.1 At the meeting of the Community and Environment Committee held on 7 December 2023 it was resolved:

- That a supplementary budget estimate of £10,000 to facilitate a 12-month subscription to Earthsense be recommended to Council for approval.
- That Derbyshire County Council be formally requested to provide an explanation regarding their opposition to the implementation of a 20-mph speed limit zone within Ashbourne town centre, given the level of public support expressed during the consultation period; and
- That Derbyshire County Council be formally requested to provide an explanation of their objection to implementation of a weight limit on traffic entering Ashbourne town centre via the A515, in order to divert heavy traffic.

1.2 At the most recent meeting of the Community and Environment Committee (6th March 24), Members were updated on the status of the above matters. Notably, Council approval for the Earthsense subscription monies (25th January 2024) and the fact officers had written to County Council Highways colleagues requesting a response to the 20mph and weight limit questions posed by Committee, however at the time of writing the report no formal response had been received. In the absence of the latter, officers did secure the attendance of Mr Neill Bennett - Assistant Director Highways Commissioning from the County Council.

1.3 Mr Bennett was able to articulate the County position on the 20mph and weight limit issues, and talk to the County Council formal response from Mr Chris Henning – Executive Director (Place) on these matters as this communication was received on 6th February 2024 after the deadline for committee reports. Mr Bennett also took questions from Members, explained some of the road infrastructure changes both being planned and realised in Ashbourne which are represented in the draft Air Quality Action Plan, whilst also expressing the commitment of the County Council Highways to the various Ashbourne based projects. A copy of the County Council formal response was cascaded to Members at the time of receipt and is included at Appendix 1. This is also the case with the briefing paper from Mr Bennett, which swiftly followed the 6th March meeting and is included at Appendix 2.

1.4 At the 6th March meeting Members were also asked how they wished to respond to the District Council receiving a warning letter from DEFRA in relation to the late submission of a valid Air Quality Action Plan for the Ashbourne Air Quality Management Area. It was resolved that officers engage with DEFRA to explain the reasons why the submission of the AQAP has been delayed and to seek to agree a new date for the submission of the AQAP, noting DEFRA's current stated deadline of 8

March 2024. The Director of Regulatory Services Mr Tim Braund wrote to DEFRA 7th March 2024 (Appendix 3) with a response back received 21st March 2024. (Appendix 4). The said response confirmed DEFRA's adherence to the escalation of warnings procedure until such time as an AQAP is submitted. The said procedure concludes with a Secretary of State Direction to the Chief Executive.

- 1.5 Members are advised the District Council received a final warning letter from DEFRA dated 21st March 2024. A copy of the letter is included at Appendix 5. Member attention is directed to paragraph 2 of the letter which states - *If AQAP submission requirements have not been met by **21 May 2024**, the matter can be escalated to a Section 85 Secretary of State direction to the relevant Local Authority Chief Executive specifying action. You are therefore advised to ensure that the legal requirements for action plans are met swiftly*.

2. Key Issues

- 2.1 As noted in the background to this report, the December meeting of the Community and Environment Committee recommended to Council that a supplementary budget estimate of £10,000 be approved in order to facilitate a 12-month subscription to the Earthsense real-time monitoring system. This approval was confirmed at the meeting of Council held on 25 January 2024. Provision has been made to carry forwards this planned expenditure into the new financial year and officers are poised to procure the system. Further information about the implementation of the system will be submitted to future meetings of this Committee.
- 2.2 As outlined in the background section of this report, the District Council has received a final warning letter from DEFRA, which has been triggered by the continued absence of a valid Air Quality Action Plan (AQAP) in relation to the Ashbourne Air Quality Management Area (AQMA). This AQMA was declared in April 2021 and the proposed action plan has been the subject of the updating reports that have been considered by this Committee since that date. In summary, officers have worked together with colleagues from Derbyshire County Council and with representatives of Ashbourne Town Council and Ashbourne Town Team to develop a series of actions intended to address the issue of high levels of nitrogen dioxide in Buxton Road and St Johns Street. The proposed actions have also been subject to public consultation. Committee has considered those measures and debated the issue and has previously not considered that it could approve the draft action plan for submission to DEFRA. Officers have therefore continued to work with colleagues from Derbyshire County Council to seek updates in relation to the actions previously suggested for inclusion within the Action Plan given the time lag that has occurred. In particular, the wording of the first three proposed actions has required updating, as the various work strands of highway interventions morph towards their stages of operation within the town to achieve smooth traffic flow. In addition, the round table discussions with mineral and logistics operators went live in the New Year, the focus being transport issues in the High Peak and Ashbourne. This work strand has also required an update.

- 2.3 Officers have now completed the AQAP review with County colleagues and the final draft is included at Appendix 6 for Member consideration with a view to submission to DEFRA prior to the specified 21st May 2024 date.
- 2.4 Given the fact we now have an updated AQAP and the Council has been issued with a final warning for the absence of the same by DEFRA, officers consider that there are two options available to the Committee, as follows:
- To accept the content of the AQAP and direct officers to submit the said plan to DEFRA, thereby satisfying the legal obligations of the Council.
 - To attempt to engage with DEFRA on a second occasion to explain why the submission of the updated AQAP cannot take place at this time and seek to agree a new date for the submission of the AQAP.

Members are advised that the second option will not stop the warning escalation process, the next stage being a Secretary of State Direction to the Chief Executive.

- 2.5 The officer recommendation is to submit the AQAP to DEFRA prior to the 21st May 2024 date.

3. Options Considered and Recommended Proposal

- 3.1 Those options that officers have identified as being available to Committee are set out in paragraph 2.4 of this report.

4. Consultation

- 4.1 The measures currently approved by Derbyshire County Council, along with the concepts of a 20-mph zone and a Clean Air Zone have already been subject to public consultation.

5. Timetable for Implementation

- 5.1 The timetable for implementation is to be determined by Committee, noting DEFRA's previous deadline of 8 March 2024 for the submission of the AQAP has passed and we are at final warning stage.

6. Policy Implications

- 6.1 Local authorities have a legal duty to provide an Air Quality Action Plan as a means to address areas of poor air quality that have been identified with in Air Quality Management Areas. These action plans should develop measures that will provide the necessary emissions reductions to achieve the air quality objectives and crucially act as a live document which is continually reviewed and developed to ensure that current measures are being progressed and new measures are brought forward.

- 6.2 Formal reporting to DEFRA on an annual basis and subsequently to the Community and Environment Committee shall take place, alongside ongoing monitoring by officers and partners.

7. Financial and Resource Implications

- 7.1 At this stage there are no financial implications beyond staff time associated with this report. As the cost of staff is included in the approved budget, the financial risk associated with the approval of the report's recommendations is assessed as low.

8. Legal Advice and Implications

- 8.1 An Air Quality Action Plan will ensure that the Council meets its statutory duties as set out in the Environment Act 1995 to regularly review and assess air quality in its area.
- 8.2 This report relates to a further update in relation to the Ashbourne Air Quality Management Area Action Plan in respect of the questions raised at the December meeting of the Community and Environment Committee, the need to update some AQAP components given the time lag and highway work strands progressing, plus a final warning letter received from DEFRA in respect of the continued late submission of the Action Plan.
- 8.3 The legal risk of challenge of taking the decision associated with this report has been assessed as low. That said there are risks including reputational risks, from receiving any direction from the Secretary of State. This can be mitigated if an AQAP is submitted to DEFRA in a timely manner following this Committee.

9. Equalities Implications

- 9.1 Decision-makers are reminded of the requirement under the Public Sector Equality Duty (s149 of the Equality Act 2010) to have due regard to:
- (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act
 - (ii) advance equality of opportunity between people from different groups, and
 - (iii) foster good relations between people from different groups.
- 9.2 The decisions recommended through this paper could directly impact on end users. The air quality action plan is relevant to younger and older age groups, and people with disabilities, who are more vulnerable from the effects of poor air quality. The air quality action plan aims to have a positive impact on people's health, including those with protected characteristics. The consultation on the draft air quality action plan has not raised any issues with regards to the protected characteristics.

10. Climate Change Implications

- 10.1 Whilst the Air Quality Action Plan is aimed at reducing health related air pollution, any reduction in traffic emissions will also have a beneficial impact in relation to climate change and should be supported.

11. Risk Management

- 11.1 The District Council has a duty to develop an Air Quality Action Plan following the identification and declaration of Air Quality Management Areas. Failure to comply with this requirement could leave this authority open to legal action and potential fines.

Report Authorisation

Approvals obtained from:-

	Named Officer	Date
Director of Resources in the absence of the Chief Executive	Karen Henriksen	08/05/2024
Financial Services Manager	Gemma Hadfield	08/05/2024
Monitoring Officer (or Legal Services Manager)	Helen Mitchell	1/5/2024