

Delegated Decisions by Cabinet Member for Growth & Infrastructure

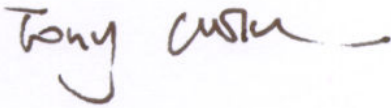
***Thursday, 3 June 2010 at 12.00 pm
County Hall***

Items for Decision

The items for decision under individual Cabinet Members' delegated powers are listed overleaf, with indicative timings, and the related reports are attached. Decisions taken will become effective at the end of the working day on 11 June 2010 unless called in by that date for review by the appropriate Scrutiny Committee.

Copies of the reports are circulated (by e-mail) to all members of the County Council.

These proceedings are open to the public



Tony Cloke
Assistant Head of Legal & Democratic Services

May 2010

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Note: *Date of next meeting: 15 July 2010*

If you have any special requirements (such as a large print version of these papers or special access facilities) please contact the officer named on the front page, but please give as much notice as possible before the meeting.

Items for Decision

1. **Declarations of Interest**

2. **Questions from County Councillors**

Any county councillor may, by giving notice to the Proper Officer by 9 am on the working day before the meeting, ask a question on any matter in respect of the Cabinet Member's delegated powers.

The number of questions which may be asked by any councillor at any one meeting is limited to two (or one question with notice and a supplementary question at the meeting) and the time for questions will be limited to 30 minutes in total. As with questions at Council, any questions which remain unanswered at the end of this item will receive a written response.

Questions submitted prior to the agenda being despatched are shown below and will be the subject of a response from the appropriate Cabinet Member or such other councillor or officer as is determined by the Cabinet Member, and shall not be the subject of further debate at this meeting. Questions received after the despatch of the agenda, but before the deadline, will be shown on the Schedule of Addenda circulated at the meeting, together with any written response which is available at that time.

3. **Petitions and Public Address**

4. **Oxford City Centre Low Emission Zone** (Pages 1 - 6)

Forward Plan Ref: 2010/055

Contact: Dick Helling, Public Transport Officer, Tel: (01865) 815859

Report by Head of Transport (**CMDGI4**).

Division(s): Isis, West Central and East
Oxford

CABINET MEMBER FOR GROWTH & INFRASTRUCTURE – 3 JUNE 2010

OXFORD CITY CENTRE LOW EMISSION ZONE

Report by Head of Transport

Introduction

1. On 26 March 2009 the Cabinet Member for Transport agreed the following proposals with regard to a Low Emission Zone (LEZ) for Oxford city centre:
 - (a) Endorse the principle that proposals for a low emission zone are progressed as part of an integrated package of transport and bus quality improvements in Oxford;
 - (b) Support Oxford City Council's intention to declare a low emission zone requiring all public service vehicles operating in Oxford city centre to meet Euro V emission standard by 31 December 2013;
 - (c) Instruct officers to:
 - (i) Agree, by 30 September 2009, a timetable and objectives for a bus quality partnership scheme (QPS) requiring all PSVs operating in Oxford city centre to comply with the requirements of the proposed LEZ; and
 - (ii) Work with the Traffic Commissioner to develop a traffic regulation condition (TRC) requiring all PSVs operating in Oxford city centre to comply with the requirements of the proposed LEZ. The TRC will be introduced unless a QPS as described in (c)(i) above has been implemented first;
 - (iii) Ask officers to carry out a detailed assessment of the impact of the proposed LEZ on low frequency bus services, particularly subsidised services or services whose commercial viability is uncertain but where it is important to retain a service for residents.
2. Since that decision was taken, County Council officers have been working with officers of the City Council and in discussion with bus companies and others to seek to give effect to these decisions. This report describes the outcome of the work undertaken so far and invites a decision on the next step and timescales for implementation.

Euro V Emission Standard

3. The Euro V emission standard became compulsory for engines in newly built buses and trucks with effect from October 2009. By the date proposed for the new LEZ, it will therefore have been in force for just over four years. The average age of the UK bus fleet is currently 8.3 years – in other words, on average, each bus remains in service for 16.6 years. The proposed LEZ would thus prohibit three quarters of the British bus fleet from being used on services in Oxford city centre, and it will thus be challenging for some bus services. Subject to the Cabinet Member's agreement to the principles discussed below, officers will therefore do some further work on the impact of the LEZ on individual bus services (in accordance with decision (d) of the March 2009 meeting) and will include this in the further report in November 2010 proposed below.
4. Some bus operators have asked for clarification on which pollutants the LEZ is targeting. As discussed in the text of the March 2009 report, the LEZ will require buses entering the city centre to comply with the Euro V standard for oxides of nitrogen (NOx) only. They will not need to comply with the Euro V standard for other pollutants because it is only NOx that is a problem in Oxford. Most bus operators are likely in practice to buy buses which meet the Euro V standard in all respects, but insistence upon reduction of pollutants which have not been identified as a problem would seriously weaken the case for imposition of the LEZ in the event of there being objections.

Vehicles Affected

5. There was a technical error in the March 2009 decision, which referred several times to "PSVs". This term applies to all passenger carrying vehicles having more than 8 passenger seats, and thus includes vehicles on private hire, tour and all manner of other work. In fact, both a QPS and a TRC (the two mechanisms agreed for investigation at that meeting), apply in law only to "local bus services"; that is, services which are available to the general public and run on a regular schedule and route with no more than 15 miles between successive bus stops.
6. The only way in which all PSVs could be restricted would be through a Traffic Regulation Order; as discussed in the March 2009 report this would present significant enforcement challenges. In practice, because most of the city centre bus gates are only available to local bus services, other PSVs are very few in number in much of the city centre anyway.
7. The measures discussed below will thus apply only to local bus services. However, it should be noted that the City and County Councils are also working on ways of improving engine standards for other vehicles. As an initial step in this, Oxford City Council's General Purposes Licensing Committee resolved, on 15 June 2009, to apply emission standards to all taxis and licensed private hire vehicles. This will be enforced through the issue of operating licenses.

Quality Partnership Scheme

8. The officer's report in March 2009 recommended (decision (c)(i)) that the LEZ should be implemented through a QPS, because it appeared at the time that this would provide an effective mechanism for the purpose, as well as being desirable to implement other bus policy objectives. There is a framework quality partnership already in existence between the county council and principal bus operators, and this has had a significant beneficial effect on bus emissions. This is a purely voluntary partnership, whereas a QPS would be binding on all bus operators. Officers were holding high level discussions with principal bus operators about developing the voluntary quality partnership, and the implementation of a compulsory QPS which would meet LEZ objectives was explored in the context of these discussions. However, the March 2009 decision was taken before the full government guidance on the application of QPSs had been published. Study of that guidance, once available, revealed that there are a number of obstacles to using a QPS to meet the LEZ objectives.
9. First and foremost, a QPS does not give the ability in law to apply restrictions on the general highway. Restrictions can be applied only at "new bus facilities". It could thus set emission standards for buses using any new bus stops, bus lanes and the like, but buses of any standard could still use adjacent bits of highway including older bus stops and bus gates. "New" means that a significant number of the applicable facilities have to be introduced at the same time as the QPS comes into force, and it cannot include any facilities over ten years old. Oxford city centre of course includes many "bus facilities", but almost all are already over ten years old, so all buses would generally be able to continue to use the existing bus facilities in the city centre under a QPS. To be effective in restricting bus emissions a QPS would require many further new bus facilities to be introduced in the city centre and your officers do not see any scope for introducing these on a scale sufficient to act as any effective restriction.
10. The second main obstacle to the use of a QPS is that it was specifically intended as a means of increasing the number of bus services. The legislation and guidance are thus framed in a way which makes it very difficult to use within a context of reducing bus numbers – which is of course another major County Council policy objective in the city centre.
11. Quality partnership discussions with the bus operators have therefore turned away from the possibility of a QPS towards use of a mechanism newly introduced by the Local Transport Act 2008, a Qualifying Agreement. This is an agreement between the bus operators, to which the County Council itself would not be party, albeit that it would have to be signed off by the County Council to avoid it being subject to competition legislation. As the Cabinet Member will already be aware, a qualifying agreement has now been agreed in principle by the Oxford Bus Company and Stagecoach in Oxfordshire, which will offer a substantial reduction in the number of buses operating on the four main competitive corridors in Oxford. It will also result in the replacement of the vehicles currently used on these services – very few of

which meet the Euro V standard – with brand new buses which would all meet standards higher than Euro V and will include a large fleet of hybrid buses. The qualifying agreement itself has not been finalised in detail, nor is the precise emission performance of the hybrid buses yet known, but it is certain that this will offer a major benefit for emission levels. This will be quantified in detail once full information is available and the emission model has been improved as mentioned below, and will be reported as soon as possible.

12. In view of the forthcoming qualifying agreement, and the difficulties in using a QPS to implement LEZ restrictions, officers are now recommending that no further work be done on implementation of a QPS unless the other mechanisms described in this report prove for some reason to be impracticable.

Traffic Regulation Condition

13. In accordance with decision (c)(ii) of the March 2009 meeting, officers have also been exploring application of the LEZ through a TRC. TRCs are imposed by the Traffic Commissioner, who is the licensing and registration authority for bus services. He has the power to restrict the buses used on local bus services where requested by the highway authority. One of the grounds, in law, for application of a TRC is “to reduce or limit noise or air pollution”.
14. Your officers therefore approached the Traffic Commissioners office, and had a meeting with the Senior Traffic Commissioner for Great Britain. The outcome of this meeting was very positive; the Commissioner is willing in principle to apply a TRC requiring all local buses to meet Euro V standards in Oxford city centre. He advised that the highway authority needs to work up the TRC in all details and in all respects; he would not himself seek to vary the County Council’s request prior to advertising it to all bus operators potentially affected and inviting objections from them. In the event that there are objections, a public inquiry would be held.
15. He therefore said that he expected the highway authority, as far as possible, to seek agreement with main bus operators in the area in advance of the formal consultation which he would undertake, in order to minimise the risk of objection. He also advised that the County Council, in its role as transport authority responsible for the provision of bus services, should consider whether there are any exemptions that they themselves would wish to propose (whilst stating that he expected that there would be a certain level of pragmatism in the enforcement in the event of break downs, accidents and so on). He also emphasised the importance of the County Council having a clear technical case to justify the application.
16. It appears to your officers that a TRC thus represents the best way forward for the LEZ, albeit that there is a certain amount of work required before an application can be submitted in detail.

Timescale

- 17. Since the LEZ was agreed by both councils in March 2009, better traffic modelling tools have been developed by the County Council. These tools are used in the calculation of the impact of emissions. In order to ensure the case put to the Traffic Commissioner is as robust as possible, officers are in the process of updating the emissions modelling methodology to make use of the new traffic models. Emission predictions will then be updated, including taking into account the effect of the qualifying agreement.
- 18. As discussed above, work is also required on discussions with bus operators, consideration by the County Council itself of the impact on bus services for the general public and also discussions with the enforcement authority (VOSA) about how individual vehicles would be recorded as meeting the proposed Euro V standard. The proposed timescales are thus as follows:

May 2010 – August 2010	Update evidence base
August 2010	Report updated evidence to LEZ steering group, including impacts of qualifying agreement and any proposed exemptions (for very low frequency services)
September/October 2010	Discussion with stakeholders on TRC proposal
October 2010	Report outcome of discussions to LEZ steering group; agree preferred approach
November 2010	Report to Cabinet Member for Transport on details of proposed TRC; seek approval to submit TRC application
January/February 2011	Submit TRC application to Traffic Commissioner (TC)
From February 2011	TC consults operator, Inquiry if necessary
By March 2012	TRC decision
1 January 2014	TRC introduced if agreed

- 19. It will be noted that this timetable allows a contingency of almost two years between the agreement and introduction of the TRC. This will allow time for bus operators to identify investment finance for and then procure new vehicles meeting the standard.

Financial and Staff Implications

20. The direct cost to the County Council of implementing the proposed LEZ will be very small. However, it could have significant financial implications for some less financially robust bus services which could in turn impact upon the County Council's bus subsidy budget. This will be taken into account in the recommendation on the detail of the proposed TRC in the report to the Cabinet Member in November 2010.
21. There are no major staff implications.

RECOMMENDATION

22. **The Cabinet Member for Growth & Infrastructure is RECOMMENDED to:**
 - (a) **note that the LEZ, as proposed, will apply only to local bus services and not to all PSVs;**
 - (b) **note that the proposed qualifying agreement is expected to produce substantial benefits for air quality in Oxford city centre, and to ask officers to quantify these benefits as soon as full information is available;**
 - (c) **note that use of a QPS to implement the proposed LEZ is not being pursued, for the reasons described above;**
 - (d) **instruct officers to continue to develop an application to the Traffic Commissioner for a Traffic Regulation Condition, requiring all local bus services operating in Oxford city centre to meet Euro V standard for nitrogen oxides, in accordance with the timescale outlined in paragraph 19 of this report.**

STEVE HOWELL
Head of Transport
Environment & Economy

Background Papers: Nil

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May, 2010