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## AIR QUALITY ACTION PLAN 2013

To: **Cabinet – 25<sup>th</sup> April 2013**

Main Portfolio Area: **Corporate & Regulatory Services**

By: **Harvey Patterson, Corporate & Regulatory Service Manager**

Classification: **Unrestricted**

Ward: **All wards**

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Summary: **Following declaration of an urban wide Air Quality Management Area in November 2011 this report updates Cabinet on the subsequent Action Plan 2013 and seeks approval for its implementation.**

### **For Decision**

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#### **1.0 Introduction and Background**

- 1.1 Air pollution impacts negatively on people's health and well-being and contributes to climate change.
- 1.2 The air quality in Thanet is generally good and it reflects a national picture in that, it is improving. However in areas near busy junctions it is not and pollution levels are exceeding UK and EU thresholds. There are currently two small areas in Thanet which exceed health based objectives for nitrogen dioxide: The Square, Birchington and High Street, St Lawrence. Both areas are encompassed by a single urban-wide Air Quality Management Area (AQMA) boundary which is one of more than 40 AQMA's across Kent.
- 1.3 The urban-wide AQMA was declared in November 2011 following a report to Cabinet<sup>1</sup> and Thanet Council is obliged under section 84 of the Environment Act 1995 to produce an Air Quality Action Plan (AQAP) setting out measures to lower pollutant concentrations within the designated AQMA. The deadline for submission to DEFRA is April 2013.
- 1.4 The Council is obliged to consult with the public and key stakeholders on the draft Plan, before a finalised Plan is submitted to DEFRA. This report seeks to fulfil the Council's statutory obligations in these respects.
- 1.5 The AQAP (Annex 1) sets out the causes and impacts of air pollution and proposes ten measures, some new and others which are already in place, to reduce air pollution:
- Investigate Traffic Signal and Junction Configuration
  - Improving movement of freight
  - Encouragement of public transport use
  - Car Sharing and Travel Planning (with a number of sub-measures)
  - Promotion of cycling and walking
  - Development planning

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<sup>1</sup> Air Quality Management in Cabinet Report 17<sup>th</sup> November 2011

- Promotion of Air Quality Issues
- Parking Enforcement
- Control of Industrial Emissions
- Feasibility studies and Funding

This Action Plan sets out the committed actions of the Local Authority and its partners in addressing local air pollutants as required by Central Government. The plan draws on and will contribute to numerous other local priorities such as the TDC's Local Plan and proposed Parking Strategy and KCC's: Local Transport Plan; Kent Freight Action Plan and Quality Bus Partnership.

The Council is obliged to monitor AQAP progress on an annual basis and submit an Annual Progress Report to Defra every April.

## **2.0 The Current Situation**

There is a requirement to consult on the draft Air Quality Action Plan. Accordingly, members of the public, colleagues and stakeholders were consulted during an 8 week period which closed on 14<sup>th</sup> March 2013. A press release was issued (Annex 2) and the plan was linked to TDC's air quality web pages. The Plan was sent to DEFRA for consideration and approval given (Annex 3) and seven public responses were also received (Annex 4).

## **3.0 Options**

- 3.1 To approve or not the draft Air Quality Action Plan (Annex 1).

## **4.0 Corporate Implications**

### **4.1 Financial Implications**

Yes.

Funding will be sought through the Local Transport Plan (LTP3), Defra Air Quality Grants as well as through Planning Obligations, S106 and/or Community Infrastructure Levy.

Measure 9, is requesting Cabinet approval for use of Environmental Permitting annual subsistence fee income (11060/8732) estimated at £8k/pa to be allocated for measures within the AQAP.

### **4.2 Legal Implications**

- 4.2.1 Under Part IV of the Environment Act 1995, local authorities are required to review and assess air quality in their areas and to report against objectives for specified pollutants<sup>2</sup> of concern, to the Department for Environment, Food and Rural Affairs (DEFRA).
- 4.2.2 Action to manage and improve air quality is required by European Union (EU) legislation. The 2008 ambient air quality directive (2008/50/EC) sets legally binding limits for concentrations in outdoor air of major air pollutants that impact public health including particulate matter (PM<sub>10</sub> and PM<sub>2.5</sub>) and nitrogen dioxide (NO<sub>2</sub>).
- 4.2.3 As part of this process, the Council declared an urban-wide AQMA for nitrogen dioxide (NO<sub>2</sub>) in November 2011, following a report to Cabinet<sup>3</sup>. This declaration was based on

<sup>2</sup> Environment Act 1995

<sup>3</sup> Air Quality Management in Cabinet Report 17<sup>th</sup> November 2011

the evidence reported in the review and assessment reports, to DEFRA, showing areas of Thanet where NO<sub>2</sub> are likely to breach national and EU legislation.

4.2.4 The Council is now required to produce an Air Quality Action Plan, with the aim of reducing levels of nitrogen dioxide (NO<sub>2</sub>), so that the annual limit of 40µg.m<sup>-3</sup> for NO<sub>2</sub> does not continue to be breached.

4.2.5 Not achieving the air quality targets nationally will amount to a breach of EU law which could in turn represent a risk for the Council. There is the potential for the UK government to be fined if EU limit values are exceeded. The fines which can be imposed are substantial. There are reserve powers in the Localism Act 2011 to passport EU fines to local authorities and public bodies (where they have failed to take action when they could). This helps to highlight the need for a clear line of sight between EU obligations and local authority responsibilities to improve air quality, and to provide clarity on the role local Authorities play. The government, however, could only pass the fines on if they can show that a local authority has not taken appropriate steps to comply with EU law.

#### **4.3 Corporate Implications**

4.3.1 The main source of nitrogen dioxide contributing to the exceedance of the air quality objective is road traffic. Accordingly, the action plan will have significant implications for land use and transportation planning policies. The focus will be on encouraging the use of non-motorised means of transport, such as cycling and walking, as a means of reducing local emissions of pollutants. This will help to minimise congestion being both an environmental and economic benefit to Thanet.

It is firmly linked to strategies at corporate level i.e. Climate Change Strategy key themes: Transport, Procurement, Planning & Regulation and Education & Promotion and the Corporate Plan specifically priority 6 - Cleaner and Greener place to live.

In terms of planning policy, the proposal offers significant benefits in ensuring a comprehensive strategic approach to safeguarding air quality. Officer discussions, with transport and strategic planners, suggest this is a logical and practical method for guiding future development and identifying appropriate mitigation measures; with relevant schemes contributing proportionately to elements of the action plan.

#### **4.4 Equity and Equalities**

The most vulnerable members of the community, that is, those with health problems, the old and the very young and those in socially deprived areas are those most affected by poor air quality. The implementation of the plan will help to restore environmental equity to individuals most affected.

#### **5.0 Summary**

The principle aim of the AQAP is to coordinate corporate strategies to offer a comprehensive strategic approach to the improvement of air quality across Thanet.

This will enable key issues, including road traffic, transportation and development, to be addressed in an integrated manner and will assist in the promotion of effective Air Quality monitoring, management and education across a broader geographic area.

#### **6.0 Recommendations**

6.1 Members are requested to approve the Action Plan (Annex 1).

## 7.0 Decision Making Process

7.1 This does involve making a key decision.

### Budget and Policy Framework

The decision recommended is in line with the Budget and Policy Framework and the decision may be taken by the Cabinet.

### Call-in

The Cabinet's decision will be subject to the call-in process.

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Reporting to:	Morgan Sproates, Environmental Protection Manager, 7081

### Annex List

Annex 1	Air Quality Action Plan
Annex 2	Press release
Annex 3	Defra consultation response
Annex 4	Public Consultation

### Background Papers

Title	Where to Access Information
None	N/A

### Corporate Consultation Undertaken

Finance	Sarah Martin, Financial Services Manager
Legal	Peter Reilly, Litigation Solicitor
Communication	Justine Wingate, Corporate Information Manager