

Forward Plan reference number: FP/046/04/21

Report title: Full Business Case for removal of Air Quality Exceedances on East Mayne, Basildon and changes to crossing locations on East Mayne, Basildon	
Report to: Councillor Lee Scott, Cabinet Member for Highways Maintenance and Sustainable Transport	
Report author: Andrew Cook, Director, Highways and Transportation	
Date: 24 June 2021	For: Decision
Enquiries to: Mark Robinson, Principal Transportation and Infrastructure Planner, mark.robinson@essex.gov.uk	
County Divisions affected: Basildon Laindon Park and Fryerns; Basildon Pitsea; Wickford Crouch	

1. Purpose of Report

This report seeks approval to proceed to implement an alternative crossing layout across East Mayne, Basildon between Christopher Martin Rd and Cricketers Way ("the Proposed Scheme") and approval to submit a Full Business Case (FBC) to the Department for Environment Food and Rural Affairs (DEFRA) / Department for Transport (DfT) Joint Air Quality Unit (JAQU), for a proposal. The proposed scheme is necessary in order to deliver compliance with the Air Quality Directive which requires improvements in the 'shortest possible time'.

2. Recommendations

- 2.1 Agree to proceed with the Proposed Scheme
- 2.2 Agree to delegate to the Director, Highways and Transportation, in consultation with the Executive Director Corporate Services (S151 officer), to submit a Full Business Case (FBC) to the Joint Air Quality Unit for the funding to implement the Proposed Scheme.

3. Summary of issue

- 3.1. In June 2019 Essex County Council and Basildon Borough Council received a Direction issued on behalf of the Secretary of State for Environment, Food and Rural Affairs to submit an Outline Business Case (OBC) to the Joint Air Quality Unit (set up by DEFRA and DfT) that proposes measures on East Mayne in Basildon (which is just south of the A127) that will, in the shortest possible time, bring the annual mean nitrogen dioxide (NO₂) emissions to below the annual mean level of 40 micrograms per cubic metre (µg/m³) as set by the EU Air Quality Directive. The Air Quality Directive is implemented in the UK through the Air Quality Standards Regulations 2010.

- 3.2. A joint DEFRA / DfT Air Quality Unit (JAQU) has been set up to oversee the delivery of all Air Quality Directives issued to Local Authorities across England. JAQU guidance assumes that a Charging Clean Air Zone (CAZ) (which charges certain vehicles to enter a defined zone) is the option that is most likely to achieve air quality compliance in the shortest possible time. Any other preferred option must be shown to be able to deliver compliance sooner than a CAZ default option.
- 3.3. Discussions with the Minister and the JAQU team concluded that an engineering option as set out in Appendix 1 to this Report which removes public access from the areas of exceedance is an acceptable approach to deliver air quality ('AQ') compliance in the shortest possible time, as it can be delivered sooner than a CAZ.
- 3.4. A CAZ was discounted on the basis that:
 - the development and delivery of a CAZ could not be achieved in the shortest possible time as a result of the extensive traffic modelling which would be required; and
 - the introduction of a CAZ at this location would have a detrimental impact on the local economy as it would make the zone less attractive to businesses than other local areas.
- 3.5. The Proposed Scheme removes public access to the existing route along the central reservation and therefore remove the location of the exceedance (see Appendix 1). It is considered a viable option as, even though this measure alone does not result in any improvements to local air quality, it prevents public exposure to the area of exceedance.
- 3.6. The DfT guidance note LTN 1/20 issued in July 2020 advises that routes and crossings should be segregated where at all possible and the route should be direct. A review of the Proposed Scheme design against the design guidance was undertaken. The Proposed Scheme, while not providing a fully segregated route, does take account of the principle to make the route as wide as possible and provide a route that cyclists can use throughout without having to dismount. The DfT has reviewed the latest design and advised it has no concerns about the Proposed Scheme.
- 3.7. The Proposed Scheme was approved by Key Decision (FP/917/12/20) in February 2021 and an Outline Business Case was submitted to JAQU. Essex County Council and Basildon Borough Council subsequently received a further Direction on 25 March 2021, issued on behalf of the Secretary of State for Environment, Food and Rural Affairs, to implement the scheme.
- 3.8. A public engagement exercise was undertaken in November-December 2020 followed by a consultation exercise that commenced in April 2021 with publication of Public Notice (reference TRAF/7550) for the Proposed Scheme. The public consultation on Public Notice TRAF/7550 was for 3 weeks and concluded on 14th May 2021

- 3.9. A number of objections were received during the public engagement and public consultation. These objections are set out in Appendix 2 to this Report.
- 3.10. The feedback from the public engagement exercise included a number of issues raised by cyclists regarding the increase in crossing points in the north/south direction and the additional journey time that would be added. Potential future mitigation measures for cyclists and pedestrians traveling between Wickford and Basildon continue to be reviewed but are being considered separately from this scheme. While it is recognised that the Proposed Scheme will increase cyclist Journey times ECC are required by the direction issued by Secretary of State for Environment, Food and Rural Affairs to implement the local plan to remove public access to an area of poor air quality in the shortest possible time. The proposed Scheme allows ECC to comply with the Direction.
- 3.11. The objections received during the public consultation. included:
- The proposals reduce people's exposure to poor air quality rather than improving air quality or tackling the causes of air pollution
 - A perceived lack of infrastructure improvements to support recent and/or proposed future development in the area
- 3.12. Concerns about a potential increase in vehicle emissions and air pollution due to increased stop/starting by vehicles
- Discouragement of walking and cycling due to additional crossing points
 - Concerns about a potential increase in vehicle journeys
 - Increased waiting times for pedestrians and cyclists in the area, potentially exposing them to vehicle emissions for a longer time.
- 3.13. A Road Safety Assessment has been carried out to ensure the suitability of the proposed changes.
- 3.14. The proposed relocation to the crossings is designed to ensure compliance with the national air quality strategy as soon as the existing route along the central reservation is removed. This is programmed for delivery by the end of 2021 and will be funded by the Secretary of State for Environment, Food and Rural Affairs.
- 3.15. It is a condition of the Direction from the Secretary of State for Environment, Food and Rural Affairs that ECC submit a FBC to confirm the final funding amounts to be provided to ECC to implement the proposed scheme.
- 3.16. Should the FBC not be approved a new way forward will need to be agreed with JAQU. If this is not possible the Council will be at risk of enforcement action.
- 3.17. Scheme **Design**

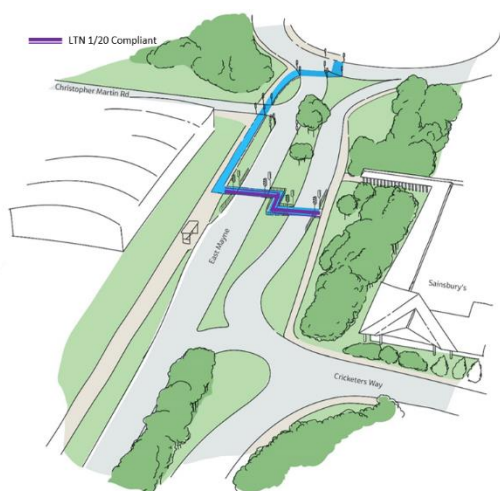


Figure 1

This scheme design provides new crossing locations and removes the central reservation route while maintaining the existing shared cycle/pedestrian design. It is the option which is most likely to deliver compliance with the Air Quality Directive standards in this location in the shortest possible time and therefore the only way to comply with the direction issued by DEFRA. Separate versions of this layout have been investigated and discounted in line with DfT Local Transport Note LTN 1/20. (See Appendix 1).

4. Options

The following options have been considered.

- 4.1. **Do Nothing** - There are exceedances of legal limits of NO₂ which the Council has been directed to resolve in the shortest possible time. DEFRA is very unlikely to withdraw the Direction, placing the Council at risk of enforcement action if steps are not taken. This option is not recommended.
- 4.2. Implement **an alternative crossing layout on East Mayne**- A number of possible feasibility designs were considered for the removal of the central reservation receptor (see Appendix 1). The options were modelled to assess their ability to address the air quality exceedance and to ensure that no other air quality exceedances were created. The layout that performed best has then been reassessed to consider the route in terms of DfT guidance LTN 1/20. The option proposed (shown in 5.3.1 below) is the one that can be delivered in the shortest possible time but takes into account LTN 1/20 in the layout and width of the crossings in the vicinity of Sainsbury's. The proposals are considered viable by JAQU and the Council has been directed to submit a Full Business Case and to implement the scheme. **This is the recommended option.**

Issues for consideration

5.1. Financial Implications

- 5.1.1 Revenue funding has been received, totalling £850,000 from DEFRA to cover the cost of investigating ways of improving air quality in Basildon. In total £791,000 of this has been spent to date. This enabled ECC to seek additional funding from JAQU through the preparation and submission of the OBC and subsequent FBC. The revenue funding already received to fund development costs is not expected to be recovered by the Funder if this scheme does not proceed.
- 5.1.2 Following the submission of the OBC in February 2021, ECC has been awarded provisional funding totalling £2.023m, of which £1.779m is capital and £244,000 is revenue. The OBC submitted had requested funding of £3.225m, of which £2.318m was capital and £907,000 was revenue funding, therefore the awarded sum was insufficient to deliver the proposed scheme as costed at that time.
- 5.1.3 The costings have been refined since the submission of the OBC, having received tender prices from the appointed contractor. As such, within the FBC being submitted to the Funder, ECC will be requesting a revision to the total funding required from £3.225m (as per OBC request) to £2.105m (as per FBC request) (a reduction of £1.12m between OBC and FBC). Of which £987,00 is capital and £1.118m is revenue expenditure. The implications of this when compared to the funding actually awarded are a reduction of £792,000 against the sum awarded for capital and an increase of £1.362m against the sum awarded for revenue. The split of this expenditure is set out in the confidential appendix.
- 5.1.4 Operational costs of this scheme are expected to run to the end of 2031 and these revenue costs are requested in the FBC. Should the full revenue funding not be provided, ECC will run the scheme for the duration that JAQU funding permits.
- 5.1.5 Following continued dialogue with JAQU a draft FBC has been provided to JAQU on the basis that a final FBC will be submitted by the Director of Highways and Transportation along with section 151 approval. The development of the costs and management of the scheme for the FBC are in accordance with HM Treasury Green Book. The current estimated implementation cost of this scheme is shown in the Confidential Appendix.
- 5.1.6 This project is expected to be fully funded by JAQU, therefore should the full funding not be allocated ECC will reduce the scope of the works to match the final award amount. To note grant award is expected in August 2021.
- 5.1.7 Whilst significant work has been undertaken to ensure that all costs presented to JAQU are robust and include sufficient contingency, ECC will be expected to cover any cost overrun. Escalation in revenue costs will be expected to be contained within the existing Highways Commissioning budget set out in the Council's Medium Term Resource Strategy (MTRS). Any capital cost escalation will need to be funded from the re-prioritisation of allocations within the existing aspirational capital programme.

- 5.1.8 Should the grant not be used in full in delivering this scheme JAQU are expected to retrieve the funding, although they may also consider investing in the delivery of further air quality improvements and/or supporting individuals and businesses affected by local air quality plans.
- 5.1.9 If ECC is successful in securing this funding additional approval will need to be sought for this project to be added into the Capital Programme.

6. Legal implications

- 6.1.1. The Council has been directed to consider measures to improve air quality on East Mayne, Basildon. Whilst there are other measures that will deliver compliance, the proposed scheme achieves compliance with the direction as quickly as possible. The Council has been further directed to submit a Full Business Case and to implement the proposed scheme.
- 6.1.2. Under section 122 of the Road Traffic Regulation Act 1984, the Council, as highway authority, has a duty to exercise its functions to secure the expeditious, convenient and safe movement of vehicular and other traffic (including pedestrians) and the provision of suitable and adequate parking facilities on and off the highway.
- 6.1.3. In doing so the Council must also consider:
- (a) the desirability of securing and maintaining reasonable access to premises;
 - (b) the effect on the amenities of any locality affected and (without prejudice to the generality of this paragraph) the importance of regulating and restricting the use of roads by heavy commercial vehicles, so as to preserve or improve the amenities of the areas through which the roads run;
 - (c) the strategy prepared under section 80 of the Environment Act 1995 (national air quality strategy);
 - (d) the importance of facilitating the passage of public service vehicles and of securing the safety and convenience of persons using or desiring to use such vehicles; and
 - (e) any other matters appearing to ECC to be relevant.

7. Equality and Diversity implications

- 7.1. The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us to have regard to the need to:
- a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc on the grounds of a protected characteristic unlawful.
 - b) Advance equality of opportunity between people who share a protected characteristic and those who do not.
 - c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

- 7.2. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, gender, and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).
- 7.3. The outcome of the equality impact assessment indicated that the proposals will not have a disproportionately adverse impact on any people with a particular characteristic and the removal of the central reservation exceedance location will have a positive impact on the health of both younger and older people. However, the proposal removes the current route along the central reservation and therefore the new route is less direct for pedestrians and cyclists for many journeys including between Wickford and Basildon.
- 7.4. This potentially increases the number of crossings that must be used along that route from two to five. As such it does have a negative impact particularly on cyclists, who are the main users of the route between the two towns and could result in them choosing to use a less safe route on the main carriageway. If implemented the new route will be very clearly signed to ensure cyclists and pedestrians are sure of the route they should use.
- 7.5. There will be publicity to promote the route and to ensure that users are aware that this route avoids areas of poor air quality. Publicity and local communications will also be used to discourage cyclists from using a less safe route.
- 7.6. Where feasible the route will be constructed in accordance with the new Local Transport Note 1/20 for the design of pedestrian/cycle routes.
- 7.7. The local data shows that there is a higher percentage of people in lower socio-economic groups living in rented housing closer to the town centre. They work in local businesses and travel on routes where the air quality is currently poor. This group is more likely to walk or cycle and are more at risk from poor air quality, therefore the scheme will have a positive impact on this group.
- 7.8. Regarding the environmental impacts, e.g. housing, transport links/rural isolation, the proposals to reduce the NO₂ pollutants along East Mayne will enable Basildon to deliver compliance with the national air quality requirements while not having adverse impacts on the surrounding areas.

8. List of appendices

- 8.1. Appendix 1 – Options considered
- 8.2. Appendix 2 - Responses to the objections received to the public notice of the proposals
- 8.3. Appendix 3 – Letter from Parliamentary Under Secretary of State at the Department for Environment, Food and Rural Affairs
- 8.4. Appendix 4 – Direction from Parliamentary Under Secretary of State at the Department for Environment, Food and Rural Affairs

8.5. Appendix 5 – Draft Full Business Case for the implementation of the new crossing locations

8.6. Appendix 6 - Equality Impact Assessment

8.7. Confidential Appendix – Final works cost

9. List of Background papers

- The original Decision to implement an alternative crossing layout across East Mayne, Basildon between Christopher Martin Rd and Cricketers Way (Forward Plan reference number: FP/917/12/20)
- The Decision to implement the 50-mph speed limit on the A127 that delivered compliance with the AQ Directive for the A127 (Forward Plan number FP-470-07-19)
- Ministerial Directive to Essex CC and Basildon Council June 2019
- DfT LTN 1/20 Cycle Infrastructure
- Options Appraisal Report
- ECC LCWIP (Draft)
- Basildon Borough Cycling Action Plan
<https://www.essexhighways.org/uploads/docs/Basildon%20CAP.pdf>
- Road Death Investigation Manual (National Policing Improvement Agency)
- Further information and Frequently Asked Questions:
www.essex.gov.uk/airquality

I approve the above recommendations set out above for the reasons set out in the report.	Date
Councillor Lee Scott, Cabinet Member for Highways Maintenance and Sustainable Transport	06.07.21

In consultation with:

Role	Date
Andrew Cook, Director, Highways and Transportation	06/07/21
Executive Director, Finance and Technology (S151 Officer) Stephanie Mitchener on behalf of Nicole Wood	05/07/21
Director, Legal and Assurance (Monitoring Officer) Laura Edwards on behalf of Paul Turner	06.07.21