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| <b>Subject:</b>          | <b>Air Quality and Planning Policy</b>                       |  |                          |
| <b>Date of Meeting:</b>  | <b>13 January 2022</b>                                       |  |                          |
| <b>Report of:</b>        | <b>Executive Director Economy, Environment and Community</b> |  |                          |
| <b>Contact Officer:</b>  | <b>Name:</b>   | <b>Liz Hobden</b>                      | <b>Tel: 07701 396943</b> |
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| <b>Ward(s) affected:</b> | <b>All</b>   |  |                          |

## **FOR GENERAL RELEASE**

### **1. PURPOSE OF REPORT AND POLICY CONTEXT**

- 1.1 This report has been prepared in response to a Notice of Motion (NoM) referred from Council in July 2021, relating to improving air quality, which sought the provision of citywide real time Air Quality monitoring information. The NoM asked that this be considered by January ETS Committee and that TECC Committee consider amending planning policy to ensure that developments that come to Planning Committee install and maintain air quality monitoring with data available to BHCC.
- 1.2 This report sets out the current and emerging planning policy that addresses air quality and development and how mitigation, monitoring and funding towards improving infrastructure can be secured through the planning process.

### **2. RECOMMENDATIONS:**

- 2.1 That Committee notes the current position in relation to air quality and planning, and new development.
- 2.2 That the Committee supports bids to secure funding towards real time air quality monitoring infrastructure from the strategic Community Infrastructure Levy pot.

### **3. CONTEXT/ BACKGROUND INFORMATION**

- 3.1 A Notice of Motion (NoM) was agreed at Council 15 July 21 stating that this Council notes that:
- The city needs publicly available real-time data about pan-city air pollution (NO<sub>2</sub> and PM) to help enable:
    - Officers to assess how interventions, building configuration changes or traffic flow changes affect air quality
    - Residents and visitors vulnerable to air pollution to plan their days when pollution levels are high.

This Council also agrees to request that:

- The Environment, Transport and Sustainability Committee explores investing in a city-wide real-time air quality (AQ) monitoring system (stations and sensors) with information available in real-time via a website for residents, councillors and officers.
- The Tourism, Equalities, Communities & Culture Committee considers amending planning policy to ensure that all residential and business developments that come to Planning Committee install and maintain an AQ monitor with data available to BHCC.

3.2 This report responds to the request to amend planning policy in relation to AQ monitoring and applications going to Planning Committee. A parallel report is also going to ETS Committee in January to address the other part of the NoM relating to investing in a real time AQ monitoring system.

3.3 In terms of background, local authorities have a statutory duty set out under the Environment Act 1995 (as amended in 2021) to review and assess air quality in their areas. Local air quality assessments help to inform where improvement needs to be prioritised, especially to ensure compliance with air quality health protections that are national standards and objectives. A key part of delivering a liveable urban realm will be to reduce emissions and monitor changes in ambient air quality most especially airborne pollutants prejudicial to human health which are nitrogen dioxide and fine particulate matter

3.4 There is existing air monitoring infrastructure in the city which is focused on poor air quality hot spots in line with policy. It is recognised that improving air quality monitoring, in line with the NoM proposal, would have multiple policy benefits including:

- The potential to contribute to health benefits and an improved liveable urban realm
- Provide ongoing data to help focus for air quality improvements
- Raise awareness of the impact of choices and therefore help behaviour change
- Assist in encouraging an increase active travel and public transport use and
- Help towards meeting Carbon Neutral objectives.

3.5 For these reasons, it is understood that the Air Quality Report to ETS Committee proposes to take forward a citywide real time air quality monitoring system and that measures will be taken to seek funding to implement this.

3.6 On the Planning side, when new development is considered in the city, the need to improve air quality is already an important objective and it is embedded in many of the **City Plan Part One** policies. Improvements to air quality are key priorities for the eight strategic Development Areas in the city (Policies DA1 – DA8). Policy SA2, relating to central Brighton, additionally requires new development proposals consider impact on local air quality and that improvements and mitigation are sought wherever possible. Policy CP18 Healthy Cities, requires health impact assessments to be submitted on all new significant development proposals which will include air quality information. The Plan also recognises that addressing air quality issues caused by road transport and home heating is a key priority.

- 3.7 Detailed planning policy set out in **City Plan Part Two** (due to be adopted summer/autumn 2022 subject to the Inspector's decision letter) includes a stronger focus on specific measures to address air quality through several policies. Policy DM40 specifically relates to pollution issues and includes specific criteria that development proposals are required to meet. For example, to support the implementation of local Air Quality Action Plans and to include measures for air quality improvements and/or mitigation wherever possible.
- 3.8 There is also specific policy support to address the transport related impacts on air quality through Policy DM35 – this requires an Air Quality Assessment to be submitted with all major developments where traffic and other impacts are likely to affect Air Quality Management Areas so that the potential impact of additional traffic emissions on the most polluted and populated areas can be adequately considered. This evidence is assessed by the air quality technical expert and, where necessary, measures are required to mitigate impacts on air quality.
- 3.9 Mitigation can be carried out by amending the design of the development to reduce the impact on future residents and locality. Alternatively, on larger schemes in sensitive locations (i.e. with existing poor levels of air quality), monitoring can be incorporated on site via a condition or via a s106 agreement. This, however, cannot be a blanket approach and would have to meet tests in national policy. For s106s the tests are that it is necessary to make the development acceptable, proportionate to the scale of development; and directly related to the development
- 3.10 To further address the aims of the Notice of Motion, the launch of **Community Infrastructure Levy** (CIL) in October 2020, and the subsequent approval of the updated Infrastructure Delivery Plan (IDP), could potentially help to address the capital cost of citywide real time air quality monitoring infrastructure. The need for this infrastructure is identified in the updated IDP (agreed at TECC Committee November 21). This means that bids can be made to the Strategic CIL pot for funding (via CIL Governance arrangements agreed at TECC Committee June 2021).
- 3.11 In terms of the part of the Notice of Motion looking to amend planning policy to ensure there is on site provision of AQ monitoring for planning committee applications, it should be noted that planning policies can only be amended through a formal review of the Plan. Future review of the Plan will commence in Spring 2022 and it will normally take 3-4 years to complete. The Plan is likely to be a new style Plan as part of the government's Planning Reforms and it is expected that the scope for local policy making will be clarified with the publication of the Planning Bill which is due in early 2022.

#### 4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 4.1 The report sets how the current planning policy framework in the City Plan and Community Infrastructure Levy positively contribute to meeting the aims of the Notice of Motion. These, however, need to be applied within the rules and policy set nationally which means that a blanket approach to all applications would not be appropriate.

- 4.2 To amend planning policy, as requested by the NoM, would require a formal review of the City Plan. Given the formal procedures and requirements this would take at least 3 to 4 years and might also be changed and delayed by Planning Reforms (due to be implemented over the next two years).

## **5. COMMUNITY ENGAGEMENT & CONSULTATION**

- 5.1 This report has not been the subject of public consultation, however, the City Plan Part One, Part Two and the Community Infrastructure Charging Levy have been the subject of extensive engagement with residents and stakeholders over a number of years. This has informed and shaped the plans.

## **6. CONCLUSION**

- 6.1 On site air quality monitoring equipment can be required as part of new development proposals, where it can be justified, using the framework of existing planning policies in the City Plan. However, this cannot be treated as a blanket approach as each planning application must be considered on its own merits and the rules relating to the attachment of conditions (and use of s106 agreements) need to be followed.
- 6.2 In terms of future funding of a citywide real time air quality monitoring network, bids can be made into the strategic pot of the Community Infrastructure Levy (once the pot has built up). This will need to be in line with agreed CIL Governance procedures and the final decision on funding will be made at Policy and Resources Committee.

## **7. FINANCIAL & OTHER IMPLICATIONS:**

### Financial Implications:

- 7.1 There are no direct financial implications arising from this report.

Should there be a decision to amend planning policy in the future, then the cost of officer time, document production and any consultation costs would be funded from existing revenue budgets within the Planning service where any significant variations to budget will be reported as part of the council's monthly budget monitoring process.

The report to ETS Committee will explore a City-Wide Real-Time Air Quality Monitoring System and any funding opportunities.

*Finance Officer Consulted: John Lack*

*Date: 17/12/21*

### Legal Implications:

- 7.2 As noted in the report, the authority has a statutory duty under the Environment Act 1995 to review and assess the air quality within its area. The review must cover current and likely future air quality.

As also noted in the report, a review of planning policies must follow a formal process. This process is laid down in relevant legislation, notably the Planning

and Compulsory Purchase Act 2004 and the Town and Country Planning (Local Planning) (England) Regulations 2012 made thereunder, which require stakeholder and public consultation on proposed policies and independent examination of those proposals by an inspector on behalf of the Secretary of State.

*Lawyer Consulted: Hilary Woodward      Name Date: 17/12/21*

Equalities Implications:

- 7.2 There are several benefits to better monitoring information on air quality and will help to ensure better equality outcomes across the city.

Sustainability Implications:

- 7.3 More extensive air quality monitoring informs and supports better policy outcomes and sustainability policy objectives.

Brexit Implications:

- 7.4 Air quality EU directives are transposed into UK legislation. The City can also work towards World Health Organisation Guidelines and improving trends in pollutants as set out in the 2021 Environment Act passed by parliament after Brexit.

Social Value Implications

- 7.5 Improving air quality monitoring in the city will help to deliver better air quality outcomes. This will address the city's priorities that lead to social and environmental benefits to residents.

Any Other Significant Implications:

Public Health Implications:

- 7.7 The proposal supports equalities and sustainability, information community engagement public health and wellbeing policy outcomes.

Corporate / Citywide Implications:

- 7.8 The proposal is to support citywide real time air quality information that will be more extensive than the current approach for monitoring focused on the areas of poorest air quality. This will benefit the whole city.

## **SUPPORTING DOCUMENTATION**

### **Background Documents**

1. City Plan Parts One (adopted 2016) and Two (submission)
2. Updated Infrastructure Delivery Plan (agreed 2021)
3. CIL Governance agreed – TECC Committee June 2021

