



To: Cabinet
Date: 17 April 2024
Report of: Head of Corporate Strategy
Title of Report: Zero Emission Zone Pilot Income and Cost Sharing Agreement

Summary and recommendations	
Purpose of report:	Cabinet is invited to support Oxfordshire County Council’s proposed income and costs sharing agreement in relation to the Zero Emission Zone (ZEZ) Pilot Scheme.
Key decision:	Yes
Cabinet Members:	Councillor Anna Railton, Cabinet Member for Zero Carbon Oxford and Climate Justice Councillor Louise Upton, Cabinet Member for Planning Policy, Transport and Health
Corporate Priority:	Pursue a Zero Carbon Oxford, Support Thriving Communities
Policy Framework:	Council Strategy 2020-24
Recommendations: That Cabinet resolves to:	
1. Endorse the proposed legal agreement on income and costs sharing with Oxfordshire County Council with regards to the revenue that is being generated by the ZEZ Pilot, in the terms that are laid out in this report and in Appendix 1; and 2. Delegate authority to the Executive Director (Development), in consultation with the Head of Financial Services, the Head of Corporate Strategy and the Head of Law and Governance, to enter into the legal agreement proposed by the County Council (as set out at Appendix 1) on behalf of the Council.	

Appendices	
Appendix 1 (Confidential)	Draft ZEZ Pilot Income Sharing Agreement
Appendix 2	Risk Assessment
Appendix 3 (Confidential)	Shared Costs and Income Forecast

Executive summary

1. This report outlines a final proposal for a net revenue share agreement between Oxfordshire County Council and Oxford City Council with regards to the ZEZ Pilot scheme.
2. In its decision of 10th March 2021, the Cabinet approved the introduction of the ZEZ Pilot scheme, including supporting Oxfordshire County Council in their legal implementation of the scheme and gave authority to the Executive Director for Development to enter into legal agreement with County in relation to the treatment of surplus funds raised from the scheme and related matters.
3. In negotiations with the County Council, it has become clear that in return for a share of any surplus generated by the operation of the ZEZ, the County Council requires the City Council to bear a share of any potential losses incurred.
4. The current agreement provides for a 50% share between the two local authorities of both the costs and profits of the scheme, which could in theory lead to eventual liability issues should the annual costs of the scheme supersede the revenue raised. This aspect of the agreement was not covered in the Cabinet's decision of 10th March 2021.
5. According to the proposed agreement, payments from the ZEZ Pilot to the City will comprise repayment of all City's net eligible historic costs, and payment of 50% share of net income (once running costs are deducted) for every year that the scheme is in operation, up until the date by which the expanded ZEZ scheme is expected to launch, whereby this proposed income share agreement automatically ceases.
6. Although the City Council's liability for its share of net costs is unlimited under the agreement, it is concluded that the risk to the City Council of incurring in those liabilities is very reduced (practically residual) given:
 - The elements provided by County in its Shared Costs and Income Forecast Report (Appendix 3 -Confidential) and which clearly attest for the financial viability of the scheme.
 - The elements provided by City in its Risk Assessment Report (Appendix 2).
 - The fact that the proposed agreement currently includes a mutual indemnity against costs arising to either party, as a result of the other's failure (lawfully or properly) to fulfil its functions.
 - The short-term duration of this agreement (anticipated to be in place only until the expected launch of the wider ZEZ scheme) and how this element impacts on current and future EV uptake rates (In the Pilot Zone, and Nationally), as highlighted in detail on the "Financial Implications" section of this report.

Background

7. On 28 February 2022 Oxfordshire County Council and Oxford City Council introduced a Zero Emission Zone pilot scheme in Oxford to reduce air pollution levels, tackle the climate emergency, and improve the health of residents, workers, and visitors in Oxford and beyond.
8. According to County's analysis of the ZEZ Pilot Scheme, the total income raised by the scheme over its first full financial year of operation (April 2022-March 2023) was of £702,934 with around 47% of this coming from daily charges and the rest from PCN income.

9. Overall, the total Income raised from all sources of the ZEZ Pilot scheme (covering the period before and after the scheme went live, up to 31 March 2023, and which also considers additional grants and City contributions) was £1,049,425.71, and the historic eligible costs reported for the same period £708,074.62. This resulted in a total historic net income of £341,351.09
10. The annual eligible costs of the scheme will significantly reduce on years 2 and 3, as they will now only relate with maintenance and operation (installation and set-up costs are non-existent). Therefore, the annual net income of the scheme is expected to significantly increase as a result.
11. Income from the Pilot ZEZ Scheme will be used to pay for its development and operation as well as to fund schemes that support the transport objectives of Oxfordshire County Council and Oxford City Council. The Transport Act 2000 requires that net proceeds are only used for schemes that facilitate the achievement of local transport policies.

Policy context and contribution to Oxford City Council's strategic aims

12. As a local authority, Oxford City Council has a statutory duty to set out air quality measures to bring its local areas into compliance with national air quality targets, and to take preventative action. The City's current [Air Quality Action Plan 2021-2025](#) outlines the list of actions that the Council and its partners are taking to improve air quality in Oxford.

Climate Change/Environmental Impact

13. The proposal aims to improve local air quality and respond to the City Council's current Climate Change commitments by introducing a new revenue stream that the City Council can use to invest in sustainable transport-related projects for the city and its residents.

Financial implications

14. Under the proposed agreement, the city is given the responsibility for the collection and analysis of public engagement and air quality data to support the development, implementation, monitoring, operation and improvement of the Pilot ZEZ Scheme, and (together with County), for the provision of information it holds about the pilot scheme to the public. Both these items will be delivered by existing staff and under existing work programmes.
15. Under the proposed agreement, there is currently no limitation on the cost that the city could be asked to bear. However, the financial exposure of the City council will be always very limited, given the following:
 - It is genuinely in the interest of both Councils to ensure that the annual eligible costs of the scheme (variable and fixed) are kept to an absolute minimum.
 - The proposed agreement currently includes a mutual indemnity against costs arising to either party as a result of the other's failure to fulfil its functions lawfully or properly.
 - The annual eligible costs are significantly reduced on years 2 and 3 of the scheme in operation, as they will now only relate with maintenance and operation of the pilot scheme. The initial costs of implementation of the back office, the set-up of all the ANPR cameras, signage and systems are non-existent after year 1.

16. The worst-case scenario is a scenario whereby every single vehicle that enters the ZEZ Pilot area is compliant (and therefore where zero income is generated to both Councils). This is a very unlikely (and practically impossible) scenario to be considered, as:
- Data from the traffic surveys shows that in 2022 the percentage of fully zero emission vehicles (the only vehicle type that is not required to pay any daily access charge) entering the ZEZ pilot and considering all vehicles classes and all roads affected during the scheme operating times (7am-7pm) and from Monday to Sunday, was of only approximately 13%.
 - There is currently a general reduction in the national and local uptake rates of Zero Emission Vehicles, impacted by high electricity costs and inflation.
 - The UK Government's recently moved to postpone the official ban from sale of all new petrol and diesel-powered cars and vans from 2030 to 2035.
17. This agreement is only valid until the day the expanded ZEZ scheme is launched, which means the city would need to see a complete revolution in the EV uptake industry in the next few years, for the scheme to generate higher costs than revenue.
18. This income sharing agreement is expected to create a new net income revenue stream for the City Council, which will allow the Council to subsidise the costs of delivery of its sustainable transport-related work, reducing revenue pressures on the Council's overall annual budget.
19. All the City Council's projects that could deliver or support delivery of: further deployment of Electric Vehicle infrastructure in the city, resident and business take up of EVs, projects that could encourage more active travel in Oxford through infrastructure and incentive schemes (cycling infrastructure and public realm improvements as well as projects and officer resource to support city input to wider green transport initiatives.), projects that could support street traders' transition towards use of electricity over generators (these are all areas which currently fall into the work of the city's regeneration and environmental sustainability teams), are all good practical examples of where this new funding stream can directly be applied to.

Legal issues

20. The charging scheme needed for the ZEZ Pilot has been introduced by Oxfordshire County Council which, as local transport authority, holds the powers to do so pursuant to Part III of the Transport Act 2000.
21. The ultimate legal responsibility for the scheme therefore rests with Oxfordshire County Council and not Oxford City Council. The monies generated as a result of such schemes may only be used for limited purposes in connection with local transport policies.
22. The proposed legal agreement between Oxfordshire County Council and Oxford City Council will govern the use of the monies that will or may be transferred by Oxfordshire County Council to Oxford City Council.
23. The Council has a statutory duty to review and assess local air quality, within the programme of Local Air Quality Management established under requirements within Part IV of the Environment Act 1995. The Council is also required to prepare an Air

Quality Action Plan with a view to reducing air pollution. This scheme contributes to the Council's duties under the Environment Act 1995.

24. The agreement to be entered into contains binding commitments on Oxford City Council including an obligation to bear the half of the costs of developing and operating the Zero Emissions Zone incurred in any financial year.
25. The Council's liability to bear its share of costs is not limited. The Council can terminate the agreement on 6 months' notice but will remain liable for its share of any costs incurred in the financial year in which the agreement is terminated.

Timetable for Implementation

26. The income- and cost-sharing agreement is in a form agreed between officers at the County Council and City Council. Providing Cabinet approves the recommendations above, officers will make arrangements to enter into the agreement before the end of the financial year.
27. The revenue share is expected to be paid by Oxfordshire County Council to the City Council before the end of every financial year, until the year the expanded ZEZ scheme becomes operational or after following a decision by the County Council's Cabinet not to pursue it.

Level of risk

28. A risk assessment is available for review on Appendix 2.

Equalities Impact

29. Air pollution particularly affects the most vulnerable in society: children and older people, and those with heart and lung conditions. Older people have around twice the level of risk of hospitalisation and death associated with poor air quality and babies and children are also particularly vulnerable. People with pre-existing asthma or chronic obstructive pulmonary disease (COPD) are very vulnerable to air pollution.
30. This proposal will reduce the level of inequalities in the city as the sharing agreement proposed will generate an income stream that the city will use and reinvest in sustainable projects that will accelerate the delivery of cleaner air for everyone living and working in Oxford.

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Background Papers: None

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