

Corporate Support Centre
Alistair Neill – Chief Executive Officer

To: All members of the Council

our ref: Council - 4 August 2020
contact: Matthew Evans, Democratic Services
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email: matthew.evans@herefordshire.gov.uk

27 July 2020

Dear Councillor,

You are hereby summoned to attend the online meeting of the Herefordshire Council to be held on **Tuesday 4 August 2020 at 2.00 pm** at which the business set out in the attached agenda is proposed to be transacted.

Yours sincerely

C Ward

Claire Ward

Solicitor to the council

AGENDA

Council

Date: **Tuesday 4 August 2020**

Time: **2.00 pm**

Place: **Online meeting only**

Notes: Please note the time, date and venue of the meeting.

For any further information please contact:

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If you would like help to understand this document, or would like it in another format or language, please call Matthew Evans, Democratic Services on 01432 383690 or e-mail matthew.evans@herefordshire.gov.uk in advance of the meeting.

Agenda for the Meeting of the Council

Membership

Chairman

Vice-Chairman

Councillor Sebastian Bowen

Councillor Kema Guthrie

Councillor Graham Andrews

Councillor Polly Andrews

Councillor Chris Bartrum

Councillor Dave Boulter

Councillor Ellie Chowns

Councillor Gemma Davies

Councillor Toni Fagan

Councillor Carole Gandy

Councillor John Harrington

Councillor Jennie Hewitt

Councillor David Hitchiner

Councillor Bernard Hunt

Councillor Terry James

Councillor Tony Johnson

Councillor Mike Jones

Councillor Jonathan Lester

Councillor Bob Matthews

Councillor Jeremy Milln

Councillor Roger Phillips

Councillor Paul Rone

Councillor Nigel Shaw

Councillor John Stone

Councillor Elissa Swinglehurst

Councillor Kevin Tillet

Councillor Ange Tyler

Councillor William Wilding

Councillor Paul Andrews

Councillor Jenny Bartlett

Councillor Christy Bolderson

Councillor Tracy Bowes

Councillor Pauline Crockett

Councillor Barry Durkin

Councillor Elizabeth Foxton

Councillor John Hardwick

Councillor Liz Harvey

Councillor Kath Hey

Councillor Phillip Howells

Councillor Helen l'Anson

Councillor Peter Jinman

Councillor Graham Jones

Councillor Jim Kenyon

Councillor Trish Marsh

Councillor Mark Millmore

Councillor Felicity Norman

Councillor Tim Price

Councillor Alan Seldon

Councillor Louis Stark

Councillor David Summers

Councillor Paul Symonds

Councillor Diana Toynbee

Councillor Yolande Watson

Agenda

Agenda		Pages
<p>1. APOLOGIES FOR ABSENCE</p> <p>To receive apologies for absence.</p>		
<p>2. DECLARATIONS OF INTEREST</p> <p>To receive declarations of interest in respect of Schedule 1, Schedule 2 or Other Interests from members of the Council in respect of items on the agenda.</p>		
<p>3. QUESTIONS FROM MEMBERS OF THE PUBLIC</p> <p>To receive questions from members of the public. <i>Deadline for receipt of questions is 5:00pm on Wednesday 29 July 2020.</i> <i>At extraordinary meetings of the Council questions must relate to reports on the agenda.</i> <i>Accepted questions and answers will be published as a supplement prior to the meeting. Submit questions to councillorservices@herefordshire.gov.uk.</i></p>		
<p>4. QUESTIONS FROM MEMBERS OF THE COUNCIL</p> <p>To receive any written questions from members of the Council. <i>Deadline for receipt of questions is 5:00pm on Wednesday 29 July 2020.</i> <i>At extraordinary meetings of the Council questions must relate to reports on the agenda.</i> <i>Accepted questions and answers will be published as a supplement prior to the meeting. Submit questions to councillorservices@herefordshire.gov.uk.</i></p>		
<p>5. IN YEAR CHANGES TO THE CAPITAL PROGRAMME BUDGETS FOR PRIORITY FLOOD WORKS</p> <p>Following consideration at Cabinet on 23 July 2020, approve the allocation of funding for priority flood damage repairs and for works to enhance the resilience of the county's infrastructure.</p>		9 - 18

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- Inspect agenda and public reports at least five clear days before the date of the meeting.
- Inspect minutes of the Council and all Committees and Sub-Committees and written statements of decisions taken by the Cabinet or individual Cabinet Members for up to six years following a meeting.
- Inspect background papers used in the preparation of public reports for a period of up to four years from the date of the meeting. (A list of the background papers to a report is given at the end of each report). A background paper is a document on which the officer has relied in writing the report and which otherwise is not available to the public.
- Access to a public register stating the names, addresses and wards of all Councillors with details of the membership of Cabinet and of all Committees and Sub-Committees.
- Have a reasonable number of copies of agenda and reports (relating to items to be considered in public) made available to the public attending meetings of the Council, Cabinet, Committees and Sub-Committees.
- Have access to a list specifying those powers on which the Council have delegated decision making to their officers identifying the officers concerned by title.
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Meeting:	Council
Meeting date:	Tuesday 4 August 2020
Title of report:	In year changes to the capital programme budgets for priority flood works
Report by:	Leader of the Council

Classification

Open

Decision type

Budget and policy framework

Wards affected

(All Wards);

Purpose

Following consideration at Cabinet on 23 July 2020, approve the allocation of funding for priority flood damage repairs and for works to enhance the resilience of the county's infrastructure.

The Bellwin scheme will not fund all repair needs following flooding in February 2020. With no further funding having been specifically made available by Government for recovery from Storm Dennis, the significant gap between what the Bellwin scheme provides and the cost of all necessary repairs must be met from within the capital programme. This report sets out the Cabinet's recommendations from their consideration of the funding options from across the capital programme and including the allocation of capital funding available following the announcement of Pothole and Challenge Fund allocations for 2020/21.

Recommendation(s)

That:

- (a) **The £7.674m (Pothole and Challenge Fund 2020/21 grant allocation) be added to the capital programme as a new programme;**

- (b) The £4.027m (Priority Flood Repair Works) be added to the capital programme as a new programme;**
- (c) Priority flood repair works totalling £4.027m, as set out in paragraph 27 of this report, are funded by extended prudential borrowing; and**
- (d) In the event that new funds are made available by Government specifically to address the priority flood repair works, then those funds would be added to the Priority Flood Repair Works programme.**

Alternative options

1. That priority flood repair works totalling £4.027m, as set out in paragraph 24 of this report, are funded through the use of either, the reallocation of existing capital programme budgets, the proposed new programme allocation of the Pothole and Challenge fund or combination of the aforementioned options or in part, additional borrowing as identified in the recommended option. This is not recommended by cabinet as it would impact upon the delivery of other projects in the capital programme.
2. Do Nothing, this is not recommended as the Council would be put at risk of failing to meet its statutory duty to maintain the highway network, property would be at risk of damage and persons at risk of injury as a consequence of further deterioration in the condition of the highway asset, particularly at the sites where the highway has had to be closed to through traffic as a consequence of storm damage.
3. Postpone this decision, this is not recommended as, not only would the Council be put at risk of failing to meet its duty to maintain the highway, and property and persons put at further risk, the funding received through the Pothole and Challenge Fund will be put at risk as the window for spend in the remainder of the 2020/21 financial year closes. Further, schemes underway to repair storm damage will have to be halted until their funding is determined, this will prolong the impact that severance is having on the community of Fownhope and the surrounding area.

Key considerations

4. Storm Dennis hit Herefordshire during the weekend of 15 and 16 February 2020, resulting in significant damage and flooding, from both runoff and river overspill with many of the rivers reaching their highest levels in 200 years. The council successfully mobilised all resources to respond to the event, with the clean-up and recovery work commencing as soon as flooding had subsided with resources focussed on making safe the worst hit areas.
5. Government declared this storm was a major incident and made the Bellwin Scheme available to the council to fund the immediate action taken from 15 February 2020 to 28 March 2020, to safeguard life or property and to prevent suffering or severe inconvenience. The council has submitted a claim for £2.528m to the Bellwin Scheme as costs that have been incurred across the public realm that are eligible for funding through this scheme. Government has yet to provide these funds.
6. Of the 139 damage sites that were identified across the county, 72 damage sites were cleared and restored to normal use by the 28 March 2020. The scale of the damage meaning that 67 sites could not be fully cleared or repaired by the end of March. Significant works remain to fully clear, investigate and repair all damage sites, including four significant

schemes, two on the B4224 near Fownhope where the damage to main highway into the village has resulted in community severance with limited alternative access. The B4399 Holme Lacy Causeway has been returned to use but remains susceptible to storm damage, a permanent solution is required. Instability in the banks of the flood plain to the River Wye that support the A438 at Whitney on Wye has resulted in temporary signal control being put in place, a permanent solution is required here also. The scale of the works that remain across the public realm for delivery beyond 28 March 2020 is estimated to be £9.1m, as set out in the table below.

7.

All Flood Damage Works	£
Capital Schemes	
Fownhope Landslip	1,565,000
Fownhope Retaining Wall Collapse	1,000,000
Holme Lacy Causeway	2,000,000
Whitney on Wye Instability	500,000
Various damage Sites	962,047
Sub Total	6,027,047
Revenue Works	
Drainage Network clearance of blockages countywide.	2,850,000
Flood investigation costs (as required by Section 19 of the Flood and Water Management Act)	250,000
Total	9,127,047

8. The B4399 Holme Lacy Causeway referred to above has been returned to use but remains susceptible to storm damage. Whilst a permanent solution is desirable to ensure the flood resilience of this route this scheme could not be progressed to delivery in 2020/21. The remaining high priority capital repair schemes total an estimated £4.027m.
9. On 28 February 2020 the Leader of the Council wrote to the Prime Minister setting out the support that Herefordshire needed as a consequence of Storm Dennis. In that letter, the council anticipated the bill for repairing the immediate impact of Storm Dennis on the public realm to be c£10 million, for which we have no provision. There has been an ongoing dialogue with Ministers following that letter. To date no funding has been available from Government specifically for Herefordshire's recovery from Storm Dennis, beyond that for action taken up until 28 March 2020. The Secretary of State for Environment, Food and Rural Affairs has, on 14 July 2020 announced its long term plan to tackle the impact of flooding, including investment of £5.2 billion to create around 2,000 new flood and coastal defences to better protect 336,000 properties in England by 2027, alongside support to help households and businesses get back on their feet more quickly after flooding <https://www.gov.uk/government/news/multi-billion-pound-investment-as-government->

Further information on the subject of this report is available from
Clive Hall, Tel: 01432 260786, email: cwhall@herefordshire.gov.uk

[unveils-new-long-term-plan-to-tackle-flooding](#) . However, this too does not appear to identify any funding specifically for Herefordshire's recovery from the impact that Storm Dennis has had on its infrastructure.

10. On 14 May 2020, the Secretary of State for Transport, announced at the Number Ten daily briefing £1.7 billion funding allocated to Combined Authorities and Local Highway Authorities for 2020/21 through the newly created Transport Infrastructure Investment Fund. This Fund which is made up of a number of Department for Transport (DfT) spending programmes but includes the local highways maintenance capital block grant funding (which contains Challenge Fund and the Incentive Element), the integrated transport block funding and the Pothole Fund. The £1.7 billion is not new funding but includes all of elements as set out in the tables within DfT's Road Information Pack for 2020/21 which can be found at the following link and sets out the funding allocated by authority: <https://www.gov.uk/government/publications/roads-funding-information-pack/roads-funding-information-pack> . The funding for Potholes included is the £500m for 2020/21, as announced in the Budget 2020, from the £2.5bn Pothole Fund and £50m from the existing Pothole Action Fund for 2020/21, which is the last year of that Pothole Action Fund. With respect to the Challenge Fund element for 2020/21, Ministers decided that due to the ongoing COVID19 issues and related pressures on highway authorities, the competition for 2020/21 Challenge Fund funding (£100m) would not progress, as such DfT would be allocating this funding by formula to all highway authorities. This approach is intended to allow a focus on COVID19 recovery. In his announcement, the Secretary of State made it clear that in 2020/21 these funds can also be used by authorities to help repair flood damage that some areas of the country may have encountered over winter 2019/20. Whilst a letter is awaited formally confirming this additional funding, it is anticipated that conditions attached will be substantially as those confirmed in a letter already received in regard to Local Transport Plan (LTP) Capital Grant funding for 2020/21. The sum allocated to Herefordshire from this announcement in the Pothole and Challenge Fund is £7.674m, bringing the total Capital Grant Allocation from DfT for Herefordshire to £19.946m.
11. In addition to the LTP Grant the council's capital programme contains three further funding lines for the maintenance of the public realm in 2020/21. They are: £2m for investment in C and U roads; £2m for investment in infrastructure assets; and £5.5m for highway asset management, though only £1.5m of this is funded from council borrowing, the remainder being conditional on successful bids for external grant funding. The 2020/21 annual plan for public realm services was approved on 29 April 2020 with an overall budget of up to £24.182m; made up of £6.41m of revenue and £17.722m of capital funding. This decision included for the allocation of all LTP grant funding available for the delivery of public realm schemes at 29 April 2020 (prior to the Secretary of State's announcement) and the aforementioned £1.5m of highway asset management funding. A further decision is due to be taken shortly to progress the £4m for investment in C and U roads and infrastructure assets also.
12. The council holds a revenue reserve of £1.2m as contingency for its response to the impact of severe weather. All capital funds received through the LTP Grant have been invested in the improvement and maintenance, hence resilience, of public realm assets. This along with challenge fund works and substantial investment of the council's own capital, totalling an additional c£30m of capital since 2013. This combined investment has in turn enabled us to make more than 30% savings in public realm revenue budgets, required in response to austerity, whilst also building and maintaining this revenue reserve. This reserve has been utilised to meet the Bellwin Scheme threshold in 2019/20 for Herefordshire of £279,161 (Under the Bellwin Scheme Government pay grant at a rate of 100% of eligible expenditure above this threshold. The council is required to have spent 0.2% of its calculated annual budget on works to be eligible for the Bellwin grant. This amount is the authority's "threshold" and applies to the whole financial year, not to each incident within

the financial year.) In addition to communicating the bill anticipated for repairing the immediate impact of Storm Dennis, the Leader, in his letter to the Prime Minister, also expressed Herefordshire's needs in respect to the resilience of our infrastructure. With £336 million of accumulated depreciation (this is the value of the works needed to return the highway asset to a good condition throughout the County) in our highways, the sums received for its maintenance need to increase by c£10m per annum if the County's local roads are to be sustained in a not perfect, but resilient state. The addition of £7.674m for the combined award of the Pothole and Challenge Fund together with the council's own capital will plug this funding gap in 2020/21. Further, in line with the £2.5bn Pothole Fund as announced in the Budget 2020, Herefordshire might reasonably expect to see annual investment levels sustained by an additional c£6m per annum over the coming 4 years. Whilst the funding profile and distribution of this Pothole Fund has yet to be confirmed by DfT, this funding is anticipated to meet 60% of the funding gap going forward beyond 2020/21. If all such funding is available for the maintenance of our highway asset, then this should result in a significant improvement in network resilience.

13. Whilst the use of the Pothole and Challenge fund grant to fund storm damage repair works would enable the priority flood damage works to progress, it will redirect much needed funding from the maintenance of the County's highway network.
14. Any single local highway authority such as Herefordshire Council has to consider whether to hold sufficient reserves to deal with the impact of an event such as Storm Dennis, particularly when combined with the impact of all other named storms experienced during the 2019/20 winter period.
15. The addition of £7.674m of the pothole and challenge fund to the capital programme will allow its investment in the highway asset through programmes of work prioritised using our robust asset management approach.
16. With the pothole and challenge fund grant allocated to highways maintenance, funding for high priority flood damage must be found to ensure that work can also be completed.
17. The remaining flood damage comprises of 67 sites that could not be fully cleared or repaired by the end of March 2020. This includes the significant schemes on the B4224 near Fownhope to address the community severance and also a solution to the instability on the A438 at Whitney on Wye which has resulted in temporary signal control being put in place. The B4399 Holme Lacy Causeway referred to above has been returned to use but remains susceptible to storm damage and whilst a permanent solution is desirable to ensure the flood resilience of this route this scheme could not be delivered in 2020/21. As such the remaining high priority repair capital schemes total an estimated £4.027m. These priority storm damage repair works will need to be funded and can be from: either existing capital programme budgets; extending borrowing; the pothole and challenge fund; or a combination of both. The capital programme can be reallocated where no spend or commitments has been incurred on a project, with the project being removed from the programme. Further if a project has been completed and delivered at an underspend, that underspend can be reallocated towards these priority flood repairs. The four funding options are set out in further detail in Appendix 1, which includes a list of capital projects from which funds might be reallocated.
18. Cabinet considered all funding options at their meeting on the 23 July 2020 and is making the recommendations as set out in this report for consideration by Council.

Community impact

19. These highway maintenance and flood repair works will contribute to the County Plan 2020 – 2024 ambitions by protecting the environment, safe communities and providing infrastructure that supports our economy. The investment will ensure the network is resilient to the extremes of weather and ensure the safety and availability of the infrastructure for our public and users of Herefordshire’s highway network.

Environmental Impact

20. The allocation of funding for priority flood damage repairs and for works to enhance the resilience of the county’s infrastructure to future storm events will contribute to the success of the County Plan by helping to increase flood resilience and improve residents’ access to green space in Herefordshire via the highway network.
21. The council provides and purchases a wide range of services for the people of Herefordshire. Together with partner organisations in the private, public and voluntary sectors we share a strong commitment to improving our environmental sustainability, achieving carbon neutrality and to protect and enhance Herefordshire’s outstanding natural environment.
22. The development of these works has sought to minimise any adverse environmental impact and will actively seek opportunities to improve and enhance environmental performance. This through minimisation of waste and enabling sustainable and active travel options across the county as a result of improvement in the condition of our highways and restoration of access throughout the highway network by the repair of flood damage.

Equality duty

23. Under section 149 of the Equality Act 2010, the ‘general duty’ on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to -
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
24. The public sector equality duty (specific duty) requires the council to consider how the council can positively contribute to the advancement of equality and good relations, and demonstrate that the council are paying ‘due regard’ in our decision making in the design of policies and in the delivery of services. This decision will have a positive impact on communities, including those that have been impacted by Storm Dennis and the damage that it caused in February 2020.

Resource implications

25. No funding other than that outlined above has been made available by Government specifically to address the impairment in the highway asset as a consequence of Storm Dennis.
26. The addition of £7.674m of the pothole and challenge fund to the capital programme will allow investment in the existing highway asset in priorities established using our robust asset management approach as follows:

Programmes		
Carriageway Works	£	2,604,000
Structures and Stability	£	3,160,000
Footways & Cycleway	£	400,000
Countywide Drainage Improvements	£	760,000
Signal, Roadmaking, Signs & Safety Barriers	£	750,000
Total	£	7,674,000

27. The estimated costs of the priority capital flood repairs excluding the Holme Lacy Causeway as set out in paragraph 7 above are as follows:

Schemes		
Fownhope Landslip	£	1,565,000
Fownhope Retaining Wall Collapse	£	1,000,000
Whitney on Wye Instability	£	500,000
Various damage Sites	£	962,000
Total	£	4,027,000

28. As a consequence of such reallocation the capital programme would be adjusted to include the following alongside other agreed adjustments:

Capital cost of project	2020/2021	2021/22	2022/23	Future Years	Total
Highway Maintenance Works (Paragraph 22 above)	7,674	0	0	0	7,674
Priority Flood Works (Paragraph 23 above)	4,027	0	0	0	4,027

TOTAL	11,701	0	0	0	11,701
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Funding streams	2020/2021	2021/22	2022/23	Future Years	Total
	£'000	£'000	£'000	£'000	£'000
Pothole Challenge Fund Grant 2020/21	7,674	0	0	0	7,674
Extended borrowing	4,027	0	0	0	4,027
TOTAL	11,701	0	0	0	11,701

29. The £4.027m would be funded from borrowing and the borrowing repayment in future years from April 2021 will be £0.193m cost per annum for a period of 40 years and would need to be funded in future years revenue budgets. This is not currently within revenue budgets and will form part of the budget setting process in Feb 2021.
30. If further funding for the repair of damage as a consequence of Storm Dennis is forthcoming from Government, then those funds can be directed to meet the costs incurred in the delivery of the priority flood damage works, consequently investment can be reinstated across the capital programme, subject to the appropriate governance.

Legal implications

31. The full Council is responsible for adopting a capital investment budget and a capital strategy under the Council's Constitution Part 3 Section 1. This report concerns in year changes to the capital programme which is a function reserved to a meeting of the full Council.
32. The council has significant responsibilities under the Highways Act 1980, more specifically Section 41 of the Highways Act 1980 which places a statutory duty on the Council as the highway authority to maintain the highway network, and other related legislation to ensure that the highways and the public realm more generally is maintained.

Risk management

33. Funding all priority highway repairs, including those needed as a consequence of Storm Dennis, will ensure that the council is meeting its duty to maintain the highway network as section 41 of the Highways Act.

Consultees

34. Political groups have been consulted on this matter via email correspondence to all members on 7 July 2020 asking them to advise group leaders of their comments by 13 July 2020 for response by political group's by 14 July 2020. No comments or objections were received prior to the Cabinet meeting of 23 July 2020. This matter was debated by Cabinet on 23 July 2020, Group leaders provided some comment and questions to Cabinet

in that meeting. All comments made by Group Leaders have been considered in reaching the recommendations as made in this report.

Appendices

None

Background papers

None identified

