

<b>Decision maker:</b>	<b>Assistant director environment and place</b>
<b>Decision date:</b>	<b>Friday, 2 February 2018</b>
<b>Title of report:</b>	<b>Holmer and shelwick: traffic calming and footway improvements consultation</b>
<b>Report by:</b>	<b>Engineering manager</b>

## **Classification**

Open

## **Decision type**

Non-key

## **Wards affected**

Holmer;

## **Purpose and summary**

To agree the works necessary, which include consultation and surveys, to enable the design of a traffic management scheme on the site of the former Pomona works, Attwood Lane, in the parish of Holmer and Shelwick.

The scheme will inform the final design and build which will mitigate the impact of additional traffic and provide a safer walking / cycling environment in the parish. The scheme is funded through the S106 contribution secured through planning application ref P130426/F.

## **Recommendation(s)**

**That:**

- (a) The consultation in relation to the traffic calming and footpath improvements in Holmer and Shelwick are commissioned and undertaken; and**
- (b) The 2017/18 public realm annual plan be amended to include the consultation and associated traffic/speed and site surveys at a value of £22,555.57**

## Alternative options

1. The council could decide not to implement the scheme, however the monies paid to the council by the developer, will be required to be refunded in full if not spent in accordance with either the terms or timescales of the legal S106 Agreement.
2. Not proceeding with the scheme will delay or prevent the improvements which will be designed to mitigate the impact of the development. It has been demonstrated through the planning application process that there is a need for the works which will benefit the community.

## Key considerations

3. The council entered into the S106 town and country planning act 1990 legal agreement with the developer to mitigate the impact of the development. Funds received must be used for the purpose specified in the legal agreement Planning permission P130426/f (which was amended by 132998/F and granted on 4 February 2014) gave permission to demolish the existing buildings on the Pomona works site and the erection of 34 new homes. The S106 agreement was signed on the 4 June, 2014 which secured £111,091.00 index linked.
4. The works identified in this decision are the precursor to the build which will be included subject to the 2018/19 public realm annual plan.
5. Consultation with the local member and the parish council has identified the initial works to ascertain the extent of the improvements in the locality.
6. Balfour beatty living places (BBLP) are the council's service providers delivering the public realm contract. Through the annual plan process, annex 4 development control and devolved services, deliver the S106 schemes. This scheme was identified but the budget did not form part of the 2017/18 annual plan.

## Community impact

7. The use of the S106 monies to undertake the consultation, design and surveys will be the precursor to implement a scheme in the locality which will mitigate the impact of additional traffic and provide a safer environment for the community.
8. The recommendation does not give rise to any health and safety implications, the consultation and surveys will inform the detailed design which will ensure compliance to relevant legislation such as health and safety and construction (design and management) regulations 2015.

## Equality duty

9. 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.
10. The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services. Our service providers, bblp, will be made aware of their contractual requirements in regards to equality legislation.

## **Resource implications**

11. The proposed works to the value of £22,555.75 is within the S106 contributions of £111,091.00. The monies are held by the council awaiting implementation of the scheme.
12. BBLP have the available resources to deliver the scheme within the timescales and budget.

## **Legal implications**

- 13 This is a non-executive function and as such the Assistant Director Environment and Place as the decision maker has the authority delegated to him from the Chief Executive (under Part 2 Article 10 in exercise of its functions in the Part 3 Functions Scheme Section 7 officer functions of the Constitution ECC Scheme of delegation to officers) to act on behalf of Herefordshire Council in highways and transportation matters in its statutory role as highways authority and all land use planning matters under the Town and Country Planning Acts, secondary legislation and any related statutory instruments as the local planning authority.
- 14 Section 106 of the Town and Country Planning Act 1990 allows any person interested in land in the area of a local planning authority to enter into a planning obligation by way of agreement to restrict the development or use of the land; to require specified operations or activities to be carried out in, on, under or over the land; for the land to be used in any specified way; or requiring a sum or sums to be paid to make the development acceptable in planning terms, before planning permission can be granted. The obligation is enforceable by the local planning authority against the person entering into the obligation and against any person as successor in title. In this case the obligation required a sum or sums to be paid to make the development acceptable in planning terms to offset the impact of the development on the local infrastructure.
- 15 Planning permission P130426/F (Demolition of existing buildings and erection of 34 no houses and garages together with roads, sewers and associated external works) as amended by 132998/F was subject to a condition that would not allow development to commence until a section 106 agreement was entered into.
- 16 The section 106 agreement was completed and dated 4 June 2014 and amongst other obligations required a contribution of £111,091 index linked to be secured towards any or all of the following facilities: Traffic calming and improved signage; localised highway improvements including a footpath from Attwood Lane to Roman Road, Hereford; a financial contribution towards "Safe Routes to Schools" a road safety initiative; and public and community transport facilities including improvements to local bus services

- 17 By virtue of the section 106 being a contractual agreement the owner/developer was required to pay the monies and the council to use the monies for those said purposes. If the monies are not used they are contractually required to return them to the person/s who made the payment within the time frame specified, namely 10 years from the date of payment. No third party can enforce the contractual obligations in the section 106 agreement
- 18 There are no legal problems with doing what is proposed and no other legal considerations

## Risk management

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Risk / opportunity	Mitigation
Consultation, surveys and design exceed available funds	Regular budget control meetings with BBLP, scheme managed through the public realm contract.
Establishment/acceptance of proposed scheme	BBLP to manage stakeholder engagement

- 20 The reputational and financial risk will be managed through the public realm contract mechanisms.

## Consultees

- 21 The parish council and local ward member have been consulted and are supportive of the proposed works identified in this report which will inform the final design and build.

## Appendices

None

## Background papers

None