

Decision maker:	Cabinet member Infrastructure and transport
Decision date:	Tuesday 6 October 2020
Title of report:	Weston Under Penyard: A40 Road Improvement Scheme: S106 works: S106 works
Report by:	Engineering manager

Classification

Open

Decision type

Non-key

Wards affected

Penyard;

Purpose

To approve the allocation of highway contributions secured by way of S106 agreement to deliver works through the public realm contract in conjunction with the programmed resurfacing scheme approved by the Cabinet Member in April, 2020, as set out in the Public Realm Service Annual Plan 2020/21 report and appendices.

These works to be done using S106 monies comprise engineering features and road markings which will change the environment of the village and reduce the speed through the village.(the S106 works)

Recommendation(s)

That:

- (a) The cabinet member approves the allocation of £84,926.00 Section 106 monies from a housing development scheme in Weston Under Penyard, to be used in conjunction with the annual plan resurfacing scheme;**

- (b) All operational decisions to implement the agreed engineering features (identified in the drawings in Appendix A be taken by the acting assistant director highways and transport / head of infrastructure delivery; and**
- (c) To approve the £15,500 developer contribution to the resurfacing scheme in Weston Under penyard.**

Alternative options

1. Do nothing, not to implement the scheme. This is not recommended as the S106 agreement sets out what the contribution can and should be used for, and there is likely to be a clawback provision in the agreement that says that if the monies are not spent or allocated within a certain period of time from its payment, then the monies will have to be returned.
2. Not to implement the measures set out in Appendix 1. This is not recommended as the design for the scheme has been developed with the local community and will benefit the locality.
3. Delay the S106 works. This is not recommended. The resurfacing scheme cannot be delayed any further due to the condition of the carriageway, there are benefits as set out in the key considerations in delivering the schemes together.

Key considerations

4. Weston-Under-Penyard is accessed by the A40, either west to Ross-on-Wye and to the M50 or east to Gloucester. It has been de-trunked as part of the Strategic Road Network (SRN) and is maintained by the council. The status of being part of the SRN is due to the road being a through link for the travelling public. The moving traffic and speed are an issue and concern to the residents and businesses in the village.
5. There has been significant development in the area which has identified the need to change the environment and has provided a contribution of £84,926.00 S106 contributions towards improvements.
6. The A40 has been identified as needing investment due to the condition of the carriageway. The S106 has coincided and provided an opportunity to change the environment, removing all existing lining and red surfacing and rethinking the village, changing from a road to a street environment.
7. The resurfacing scheme has been delayed 12 months whilst Balfour Beatty Living Places (BBLP) have consulted with Weston-under-Penyard Parish Council in identifying key areas of concern and improvements. The scheme drawings are in Appendix 1. The scheme will change the environment and speed by introducing a roundabout, additional coloured surfacing highlighting junctions and new lining and signage.
8. The combining of the surfacing and S106 works element has the benefit of minimising disruption on the network, traffic management (TM) and duplicate resources such as TM, site set up, welfare, etc.
9. Due to the condition of the network, the surfacing can't be delayed another year, the scheme is programmed to be delivered week commencing 26 October 2020. If the scheme was not to be delivered, standard lining and give way marking would need to be

replaced as soon as possible following completion, this will ensure safety of the travelling public.

10. The S106 works would not be possible without the resurfacing scheme as removing lining and the red surfacing will be cost prohibitive taking into account the overall cost of the scheme and the contribution from development.
11. An additional £15,500.00 contribution from the developer has been provided and is in the S106 account, this was to mitigate the entrance works to the existing gateway. As the surfacing scheme was identified at the time of construction, it was deemed to be better value for money for the resurfacing scheme to include the area rather than 2 visits, 2 traffic management schemes and to minimise the impact for the public and locality.

Community impact

12. The County Plan sets out the following commitment: We will work to enable parish councils to act quickly to undertake routine maintenance work to improve and maintain the condition of the local road and footpath networks. We will prioritise the maintenance of our existing transport networks and through our approach to locality working we will ensure that this local delivery complements our countywide programme of works.
13. Changing the environment will benefit the local community by providing engineering features designed to reduce speeds and provide a place rather than a trunk road design. The parish and local community have been consulted as to the options and had input into the final design. The scheme will have a positive benefit to the locality.

Environmental Impact

14. The proposed investment will provide an environment which is aimed to reduce the speed in the locality. As a result the scheme will improve the emissions in the area, reducing the county carbon emissions and provide a better place for the village of Weston-Under-Penyard.
15. Combining the resurfacing and engineering scheme together will reduce the mobilisation allow the opportunity to increase work under the same road space. This will reduce traffic management, congestion caused by the road works and impact on the locality.

Equality duty

16. 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.

17. 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 providers will be made aware of their contractual requirements in regards to equality legislation.
18. Reducing the speed and environment for the local residents and businesses is deemed to have a positive impact on all of the community.

Resource implications

19. The S106 contribution, £84,926.00 is required to deliver the engineering features as detailed in appendix 1.
20. The additional £15,500.00 developer contributions are required to deliver the surfacing scheme, this was provided by the developer to provide a better scheme delivering the surfacing element in one visit rather than 2 with additional traffic management and joints in the carriageway which are weak points subject to deterioration.
21. The proposed works are fully funded from developer contributions. The proposed resurfacing of the A40 is fully funded from the annual plan capital maintenance budget, delivery was approved by the Cabinet Member in April, 2020, as set out in the Public Realm Service Annual Plan 2020/21 report and appendices.
22. Delivering the planned A40 resurfacing works and the S106 works element in conjunction has the benefit of minimising disruption on the network, traffic management (TM) and duplicate resources such as TM, site set up, welfare.

Legal implications

23. This is a non-executive function and a non-key decision and as such the Chief Executive under Part 2 Article 10 can delegate the Council's function under Part 3 Section 7 of the Constitution and under the officer Economy and Place Scheme of delegation to officers to act on behalf of Herefordshire Council in respect of all land use planning matters under the Town and Country Planning Acts, secondary legislation and any related statutory instruments. In this instance the cabinet member infrastructure and transport will make the decision.
24. The Town and Country Planning Act 1990 confers statutory obligations on Herefordshire Council as the local planning authority for the administrative area of Herefordshire, the functions of which are referred to in Schedule 1 of the referred to Act.
25. 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. The obligation is enforceable by the local planning authority against the person entering into the obligation and against any person as successor in title.
26. It was deemed necessary for the developer to enter into an agreement referred to in the recommendation, to make the development acceptable in planning policy terms, and the obligation required a highway contribution which is to be used toward engineering features, road markings and speed reductions through the village . By virtue of the section 106

being a contractual agreement the owner/developer is 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. No third party can enforce the contractual obligations in the section 106 agreement.

27. There are no legal problems with doing what is proposed and no other legal considerations.

Risk management

28. If the scheme is not delivered as part of the resurfacing, the original lining will need to be replaced, implementation of the engineering features will become cost prohibitive.

Risk / opportunity	Mitigation
Traffic management impact on the locality and the A40 such as traffic lights which will incur delays to the travelling public though these will be kept to a minimum.	Traffic management plan developed as part of the resurfacing scheme to incorporate into engineering features.
Cost increases due to delays in approval of the contributions.	Early decision to include or not, this will manage the scheme and local expectation, allowing delivery of the resurfacing,

29. The risks will be managed by the delivery team monitored by the contract management team.

Consultees

30. To understand the concerns of the locality and possible solutions, Balfour Beatty Living Places have attended Parish Council meetings on four occasions. The meetings were held on the 29/10/2019, 3/10/2019, 5/3/2020 and 4/7/2020, the meeting discussed the principles, present concept plans, public to view and to review proposed final plans. In addition to these meetings, ADL, BBLP sub contactors, met the parish Council to discuss the Traffic Regulation Requirements.
31. The design drawings attached in appendix 1 are the result of the public and parish Council consultation.

Appendices

Appendix A

Weston under penyard A40 road improvement scheme drawings 1 of 2

Weston under penyard A40 road improvement scheme drawings 2 of 2

Background papers

None identified