

Agenda

Cabinet

Date: **Thursday 18 January 2018**

Time: **2.00 pm**

Place: **Council Chamber, The Shire Hall, St Peter's Square,
Hereford, HR1 2HX**

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

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Agenda for the meeting of Cabinet

Membership

Chairman **Councillor AW Johnson**
Vice-Chairman **Councillor JG Lester**

Councillor H Bramer
Councillor BA Durkin
Councillor DG Harlow
Councillor PD Price
Councillor P Rone
Councillor NE Shaw

Agenda

		Pages
1.	<p>APOLOGIES FOR ABSENCE</p> <p>To receive any apologies for absence.</p>	
2.	<p>DECLARATIONS OF INTEREST</p> <p>To receive any declarations of interest by Members in respect of items on the Agenda.</p>	
3.	<p>MINUTES (TO FOLLOW)</p> <p>To approve and sign the minutes of the meeting held on 12 January 2018.</p>	
4.	<p>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 Monday 15 January 2018</i> <i>Accepted questions will be published as a supplement prior to the meeting.</i> <i>Please see https://www.herefordshire.gov.uk/getinvolved for information on how to submit a question.</i></p>	
5.	<p>QUESTIONS FROM COUNCILLORS</p> <p>To receive questions from councillors. <i>Deadline for receipt of questions is 5:00pm on Monday 15 January 2018.</i> <i>Accepted questions will be published as a supplement prior to the meeting.</i></p>	
6.	<p>HEREFORD TRANSPORT PACKAGE (HTP) OPTIONS CONSULTATION & PHASE 2</p> <p>To consider feedback to HTP Phase 1 consultation and confirm scope of Phase 2 consultation and progress to consultation.</p>	11 - 164
7.	<p>SUSTAINABLE MODES TO SCHOOL STRATEGY</p> <p>To approve the Sustainable Mode of Travel to School (SMOTS) strategy for adoption by the council and approve the contents of the general scrutiny committee recommendations.</p>	165 - 222
8.	<p>16-19 LOCAL AUTHORITY COMMISSIONED SEN SCHOOL: AGREEMENT TO LEASE FORMER BROADLANDS PRIMARY SCHOOL SITE</p> <p>Cabinet has previously agreed in principle to provide part of the former site of Broadlands Primary School to enable the creation of a new post 16 special school, to be created and funded through the government's free school programme. This report confirms that the council will provide the site to enable the new school building to be constructed.</p>	223 - 238
9.	<p>MARLBROOK PRIMARY EXTENSION, FEASIBILITY AND INTERIM WORKS</p> <p>To authorise the undertaking of interim works to provide additional classroom space for use by Marlbrook Primary School in Hereford from September 2018 and as a consequence end the use of the site as a multi agency office</p>	239 - 246

(MAO).

10. PRE-PAID CARDS TENDER

247 - 264

To agree the procurement of a financial pre-paid card service to support both the council's adults and wellbeing and children's wellbeing directorates, and the Clinical Commissioning Group, if required, and authorise the director for adults and wellbeing to award a new five year contract implemented from 1 July 2018.

11. SINGLE ENFORCEMENT & PROSECUTION POLICY

265 - 364

To approve the revised single overarching enforcement and prosecution policy for all regulatory activities undertaken by or on behalf of Herefordshire Council, together with specific supplementary policies.

The Public's Rights to Information and Attendance at Meetings

YOU HAVE A RIGHT TO: -

- Attend all Council, Cabinet, Committee and Sub-Committee meetings unless the business to be transacted would disclose 'confidential' or 'exempt' information.
- 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.
- Copy any of the documents mentioned above to which you have a right of access, subject to a reasonable charge (20p per sheet subject to a maximum of £5.00 per agenda plus a nominal fee of £1.50 for postage).
- Access to this summary of your rights as members of the public to attend meetings of the Council, Cabinet, Committees and Sub-Committees and to inspect and copy documents.

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- The Shire Hall is a few minutes walking distance from both bus stations located in the town centre of Hereford.

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You should vacate the building in an orderly manner through the nearest available fire exit and make your way to the Fire Assembly Point in the Shire Hall car park.

Please do not allow any items of clothing, etc. to obstruct any of the exits.

Do not delay your vacation of the building by stopping or returning to collect coats or other personal belongings.

The Chairman or an attendee at the meeting must take the signing in sheet so it can be checked when everyone is at the assembly point.

Guide to Cabinet

The Executive or Cabinet of the Herefordshire Council consists of a Leader and Deputy Leader and six other Cabinet Members each with their own individual programme area responsibilities. The current Cabinet membership is:

Councillor AW Johnson (Leader) (Conservative)	Corporate Strategy and Budget
Councillor JG Lester (Deputy Leader) (Conservative)	Young People and Children's Wellbeing
Councillor H Bramer (Conservative)	Contracts and Assets
Councillor BA Durkin (Conservative)	Transport and Regulatory Services
Councillor DG Harlow (Conservative)	Economy and Communications
Councillor NE Shaw (Conservative)	Finance, Housing and Corporate Services
Councillor P Rone (Conservative)	Health and Wellbeing
Councillor PD Price (Conservative)	Infrastructure

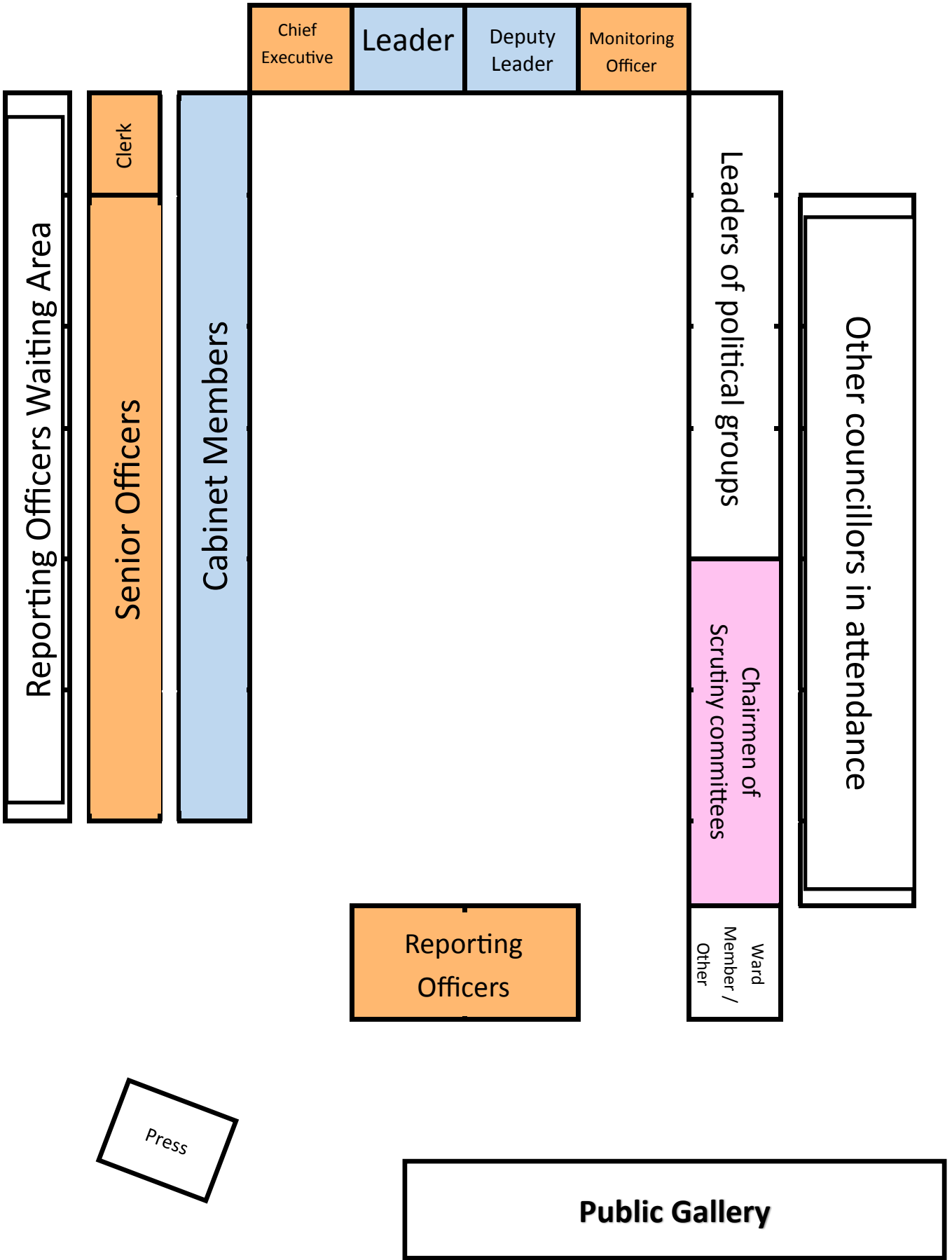
The Cabinet's roles are:

- To consider the overall management and direction of the Council. Directed by the Leader of the Council, it will work with senior managers to ensure the policies of Herefordshire are clear and carried through effectively;
- To propose to Council a strategic policy framework and individual strategic policies;
- To identify priorities and recommend them to Council;
- To propose to Council the Council's budget and levels of Council Tax;
- To give guidance in relation to: policy co-ordination; implementation of policy; management of the Council; senior employees in relation to day to day implementation issues;
- To receive reports from Cabinet Members on significant matters requiring consideration and proposals for new or amended policies and initiatives;
- To consider and determine policy issues within the policy framework covering more than one programme area and issues relating to the implementation of the outcomes of monitoring reviews.

Who attends cabinet meetings?

On the next page you will find a layout plan of the room showing who is sitting where. Coloured nameplates are used which correspond to the colours on the plan as follows:

Pale blue	Members of the cabinet, including the leader of the council and deputy leader – these are the decision makers, only members of the cabinet can vote on recommendations put to the meeting.
Orange	Officers of the council – attend to present reports and give technical advice to cabinet members
Pink	Chairmen of scrutiny committees – attend to present the views of their committee if it has considered the item under discussion
White	Political group leaders – attend to present the views of their political group on the item under discussion
	Other councillors may also attend as observers but are not entitled to take part in the discussion.



Chief Executive Leader Deputy Leader Monitoring Officer

Reporting Officers Waiting Area

Clerk
Senior Officers

Cabinet Members

Reporting Officers

Leaders of political groups
Chairmen of Scrutiny committees
Ward Member / Other

Other councillors in attendance

Press

Public Gallery



Meeting:	Cabinet
Meeting date:	Thursday, 18 January 2018
Title of report:	Hereford Transport Package (HTP) Options Consultation & Phase 2
Report by:	Cabinet member infrastructure

Classification

Open

Decision type

Key

This is a key decision because it is likely to result in the council incurring expenditure which is significant having regard to the council's budget for the service and because it is likely to be significant in terms of its effect on communities living or working in an area comprising one or more wards in the county.

Wards affected

All wards
(with potential particular impact on Wormside, Stoney Street, Belmont Rural, Credenhill, Whitecross, Kings Acre, Queenswood and Holmer wards)

Purpose and summary

To consider feedback to HTP Phase 1 consultation and confirm scope of Phase 2 consultation and progress to consultation.

On 16 June 2016 Cabinet approved funding and delegated authority to officers to progress the Hereford bypass route selection as part of a package of transport measures in Hereford. These would support the growth of Hereford and deliver sustainable transport and health benefits to the city centre.

Cabinet confirmed that this work should include consultation with local communities and stakeholders to ensure their feedback and views inform the development, design and alignment of the bypass and the package of complementary measures. Consultation (Phase 1) took place in April & May 2017 and the outcome of this consultation is summarised in a report which is included in Appendix 1 of this cabinet report. This feedback has been considered alongside the technical

assessment of possible route corridors for the bypass and a shortlist of route corridors has been developed. The detail of this is set out in a Corridor Assessment Framework report which is attached in Appendix 2 of this cabinet report. Cabinet is asked to approve this shortlist and authorise a further round of consultation (Phase 2). This consultation will enable stakeholders to comment on the shortlist of bypass route options and provide feedback which will inform the preferred route for the bypass. Further details of the package of measures which would be delivered alongside a bypass would also be consulted on to enable a preferred package to be developed.

Recommendation(s)

That:

- (a) having regard to the feedback to the HTP Phase 1 consultation report and the Hereford Bypass corridor assessment framework report the shortlist of route corridors shown in paragraph 25 below be approved;**
- (b) Phase 2 consultation on the approved shortlist of bypass route options and possible active travel measures be undertaken to gather feedback to inform the selection of a preferred route for the bypass and to enable the preferred package of measures to be further developed and**
- (c) the assistant director environment and place be authorised to take all operational decisions necessary to inform a decision to determine a preferred route for the bypass and a package of active travel measures within a maximum budget of £1m.**

Alternative options

1. An option for proceeding with the Hereford growth proposals without the provision of a bypass was considered and discounted during the Core Strategy process. This decision is required to progress the bypass route assessment work to select a preferred route for the bypass and not to progress this work will mean the HTP objectives and core strategy growth targets cannot be achieved.
2. An option not to progress any further work until the consultation takes place and feedback received. This is not recommended as the selection of a preferred route will take account of a range of technical work which includes but is not limited to the consultation feedback. This work should progress alongside the consultation.

Key considerations

3. The Hereford bypass, as part of the Hereford Transport Package, is a key infrastructure project that is necessary to drive the economic growth of Hereford and the region. It is identified as a priority within the council's Economic Vision, Local Plan Core Strategy (LPCS) and Local Transport Plan (LTP) and also within the Marches Strategic Economic Plan.
4. The Hereford Transport Package will
 - Enable the delivery of future housing, employment and educational development by maintaining acceptable peak hour journey times across the city
 - Enable the delivery of future housing, employment and educational development by providing attractive alternatives to the private car for journeys within the city

Further information on the subject of this report is available from
Mairead Lane, Tel: 01432 260944, email: mlane@herefordshire.gov.uk

- Enable the improvement of regional connectivity by achieving acceptable peak hour journey times on the A49 through the city
 - Ensure the transport network within Hereford is resilient enough to provide consistent journey times throughout the day
 - Encourage healthy lifestyles by encouraging more people to walk and cycle
 - Reduce the impacts of transport on air quality and noise within the city
 - Protect the quality of the urban realm to enhance pedestrian connectivity in the city
 - Improve road safety within the city.
5. On 16 June 2016 cabinet approved funding to progress the delivery of the HTP project including work to determine an approved route for the bypass and a package of complementary measures. This work would include consultation with residents, communities and stakeholders to ensure their views informed bypass route corridor selection and package design.

Phase 1 Consultation:

6. A first round of consultation (Phase 1) took place in April/May 2017. This consultation was combined with the Hereford Area Plan (HAP) Issues and Options consultation which focused on the detailed proposals to ensure the delivery of the city-specific policies in the Core Strategy. Combining the consultations helped to avoid overlapping periods of consultation, and helped communicate the link between housing growth and infrastructure development within Herefordshire.
7. The consultation lasted for seven-weeks, from 4 April 2017 to 22 May 2017. During the consultation period exhibitions were held at two venues in the centre of Hereford - The Courtyard and Hereford Library. During these events staff were available to discuss the project. In addition all consultation information and materials were available on a council consultation webpage.
8. The main channel for feedback was the consultation survey. This was a combined survey with questions relevant to the HAP and HTP and included 61 questions; seven of these were relevant to the HTP. These HTP questions explored the following topics:
- Movement (questions 16 and 20) as part of the HAP section of the questionnaire
 - Existing transport conditions (questions 46-48)
 - The proposed Hereford Bypass (question 49)
 - The proposed walking, cycling, bus and public space improvements (questions 50-52)
9. A total of 1,467 questionnaires were completed during this period – 1,400 were completed online and 67 were hard copy responses. Of these, 671 responded to at least one of the questions regarding the HTP. The HTP related responses are summarised within the consultation report within Appendix 1 of this report.
10. During the consultation period, 11 stakeholder organisations chose to respond about the HTP. The detail of these responses can be seen in the consultation report in appendix 1 of this report and were from the following:

- Church Commissioners for England
 - Hereford and Worcester Gardens Trust
 - Hereford Civic Society
 - Hereford Livestock Market
 - Hereford Sustainable Transport Group
 - Historic England
 - Natural England
 - Powys Council
 - Savills on behalf of Golf Inns
 - Taylor Wimpey
 - Woolhope Naturalists Field Club
11. There were a total of 35 completed petition forms received during the consultation period from local residents in Hereford and the surrounding area. 30 of these responses used templates available from the Breinton Parish website. These templates covered the themes of environment, freight, economy and sustainable transport. This can be seen in the consultation report in Appendix 1 of this report.
12. The consultation report in appendix 1 provides a detailed analysis of each of the questions asked about the HTP project. Some key points follow:
- Of the 671 respondents to the HTP section, 627 (93%) chose to respond to the first of the HTP questions Question 46 – ‘Do traffic conditions in Hereford need to improve?’ 98% of these respondents agree that the traffic conditions in Hereford need to be improved; with only 2% disagreeing with this. This reiterates the importance of transport infrastructure improvements.

- Question 47 asked 'What do you think are the current transport problems in Hereford'? Respondents were given the opportunity to rank the current transport problems in Hereford from a list of 12 options. They were asked to rank up to five, with 1 being the biggest problem, 2 being the second biggest problem etc. Analysis of responses is set out in detail in the consultation report and determined that the top five problems were ranked as follows:

PROBLEM	OVERALL RANK	TOTAL SCORE¹	PERCENTAGE OF MAXIMUM POSSIBLE SCORE²
Traffic congestion	1	2,488	79%
Volume of heavy goods vehicles	2	1,239	39%
Long delays at signal junctions	3	1,005	32%
Poor public transport links to rural areas	4	1,000	32%
Poor cycling/walking infrastructure	5	952	30%

¹ The total score is a weighted calculation. Items ranked first are valued higher than the following ranks, the score is a sum of all weighted rank counts.

² The percentage of maximum possible score shows how close to the possible 100% of participants each response is. It has been developed to aid the comparison of responses only and does not reflect the percentage of people that chose the topic.

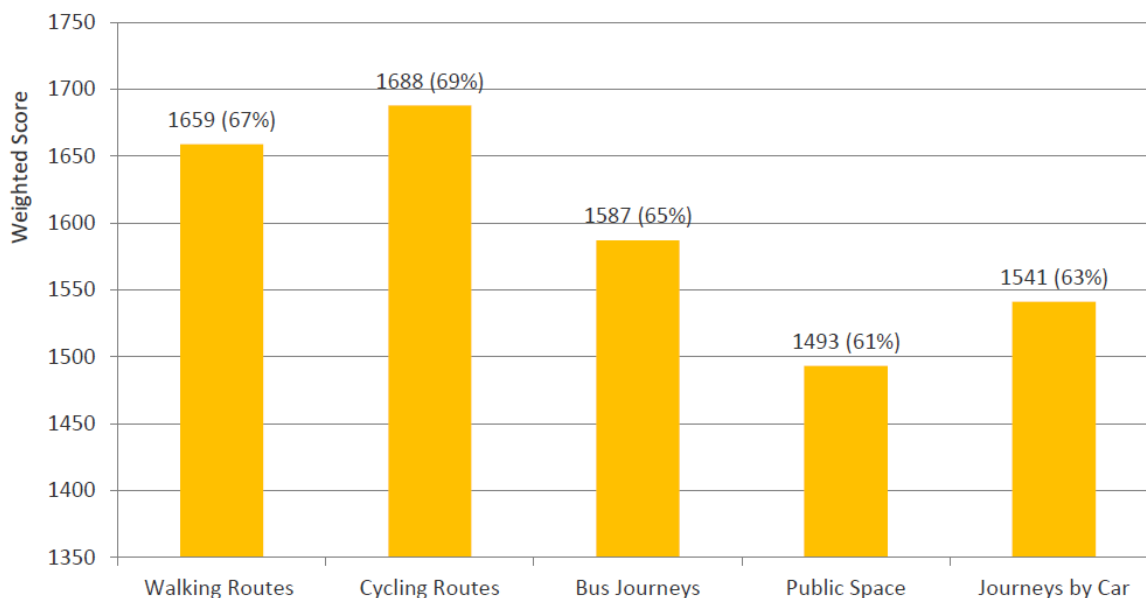
- Question 48 asked 'What do you think puts some people off walking, cycling or using the bus for short trips? There were 562 responses to this question. The five most common reasons suggested were:
 - Safety
 - Poor bus services
 - Cost of public transport
 - Lack of walking and cycling infrastructure
 - Inconvenience

- Question 49 asked 'How important do you think the following factors are in choosing the bypass route? 612 people responded to this question. They were asked to rank up to five factors. Analysis of responses is set out in detail in the consultation report and determined the top five factors as follows:

FACTOR	OVERALL RANK	TOTAL SCORE¹	PERCENTAGE OF MAXIMUM POSSIBLE SCORE²
Reducing traffic in Hereford	1	2,314	76%
Less congestion in Hereford	2	2,200	72%
Impact on landscape (e.g. Historic Buildings)	3	1,600	52%
Impact on homes	4	1,546	51%
Improved facilities for walkers, cyclists and bus users	5	1,522	50%
¹ The total score is a weighted calculation. Items ranked first are valued higher than the following ranks, the score is a sum of all weighted rank counts. ² The percentage of maximum possible score shows how close to the possible 100% of participants each response is. It has been developed to aid the comparison of responses only and does not reflect the percentage of people that chose the topic.			

- Question 50 asked 'Which of the following improvements do you think are your priorities?' Respondents were given the opportunity to rank a list of possible improvements set out in the questionnaire on a scale of 1 to 5 (1 being very important and 5 being not important at all. 492 people responded to this question. Analysis of responses is set out in detail in the consultation report and determined that the top five priority improvements are as follows:

Figure 5-4 - Priority improvements

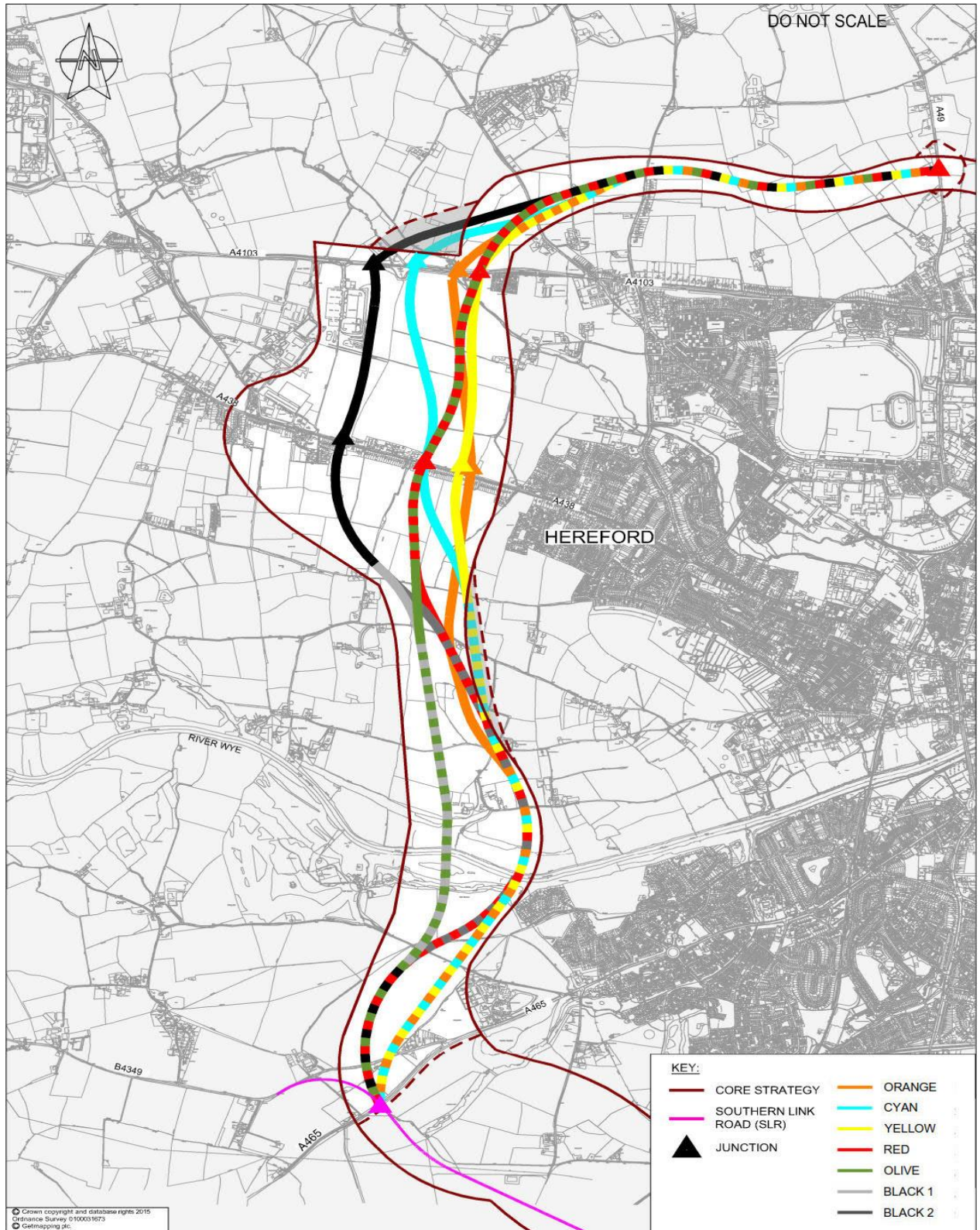


- Question 51 asked ‘Are there any locations where you think walking, cycling, bus and public space improvements could be beneficial?’ 228 people responded to this question. Table 5.4 in the consultation report in appendix 1 sets out a detailed summary of suggestions made.
 - Question 52 asked ‘Are there any other options we need to consider to help manage Hereford’s transport problems?’ 221 people responded to this question. Table 5.5 in the consultation report in appendix 1 sets out a detailed summary of suggestions made.
13. The consultation reached a wide range of landowners, business, residents and communities. The consultation increased awareness of the proposals, planning and design process. Feedback received demonstrates that overall there is broad agreement amongst respondents that traffic conditions in Hereford need to be improved. There was broad support for the principle of a bypass to solve some of these transport problems with some objection to the location of the route corridor despite this being adopted in the Core Strategy.
 14. Some survey respondents expressed concerns about the impacts of a bypass scheme, several recognised the economic benefits, the opportunity to provide infrastructure for housing growth and benefits in terms of sustainable travel in the city centre.
 15. This feedback was assessed alongside technical design and appraisal work to inform bypass route corridors and it will also assist with developing the package of active travel measures which could be delivered with a bypass.

Bypass Corridor Assessment:

16. Following consideration of the feedback to the consultation described above 24 possible bypass route corridors were identified within the corridor set out in the adopted core strategy and communicated in the consultation.
17. These bypass corridors were developed from the work of previous consultants as part of the core strategy development and took account of the wide range of constraints within the core strategy corridor.
18. These routes are a wide range of possible options throughout the corridor that could be feasible as route alignments. Insofar as possible they are spread across the core strategy corridor to ensure no geographic bias.
19. Detailed constraint mapping has taken place to ensure that all constraints within the core strategy corridor are identified and assessed across all bypass route corridors.
20. This work is set out in detail in a corridor assessment framework report which is attached in Appendix 2 to this report.
21. The route corridor assessment framework consists of 30 criteria encompassing a wide range of social, environmental, physical and economic issues and have been selected on the basis of their importance to the efficiency and effectiveness of the bypass itself, and reflect particularly sensitive locations within the core strategy corridor. Assessment work has followed webTAG guidance and Highways England Project Control Framework (PCF) and is as follows:
 - Analysis of constraints and opportunities of each of the possible route corridors
 - Identification of key policies as set out in the National Policy Statement for National Networks (NPSNN), and
 - Setting of scoring ranges for each of the route corridors based on a scale of their impact, either positive, neutral or negative.
22. The results of this work are set out in the corridor assessment report in Appendix 2.
23. In accordance with DfT guidance the 24 possible route corridors have been reviewed to identify those which are unlikely to pass key viability or acceptability criteria. This initial sift has been based upon the National Planning Policy Framework (NPPF) and NPSNN. Ancient Woodland designation is the most important policy consideration in this instance as an Examining Authority is directed to refuse any application where it can be demonstrated that there are alternative routes that avoid ancient woodland. Of the 24 possible route corridors, 14 impact directly upon Ancient Woodland. Since there are ten possible route corridors which avoid Ancient Woodland, these 14 route corridors have not been taken forward to the short list.
24. Three of the remaining ten possible route corridors require constructing an additional roundabout on the A465 to the east of the proposed junction with the Southern Link Road (SLR), along with local upgrading of the section of A465 between the two roundabouts. This arrangement would add complexity to the traffic movements, introducing a dog-leg for traffic wishing to travel on both the SLR and the section of bypass north of the A465. This layout would be less attractive for through traffic in using the bypass and is not consistent with the route being part of a strategic trunk road network. As a consequence, these three route corridors have also not been taken through to the short list.

25. Of the 24 possible route corridors, 14 have been rejected on the basis of considering their impact on Ancient Woodland and a further three have been rejected on the basis of poor connectivity with the wider network. The remaining seven route corridors are to be taken through to the short list for further appraisal and examination. The short listed of corridors can be seen in Figure 5.1 of the corridor assessment framework report and are as follows



Further information on the subject of this report is available from
 Mairead Lane, Tel: 01432 260944, email: mlane@herefordshire.gov.uk

26. Whilst seven routes have been shortlisted there are lengths of the bypass where these lie close to each other. It can be seen in the corridor assessment report that the impact of the seven short listed corridor routes varies depending on the respective alignment. However, all are possible and none have features / impacts at this stage which would rule them out. All merit further appraisal in the next stage of the project.
27. Cabinet are asked having regard to the selection process followed, to approve further consultation of this short list of routes to enable feedback which will inform further detailed assessment and enable a preferred route for the bypass to be determined which would be the subject of further report and further consultation in 2018.
28. Subject to cabinet's approval to the recommendations in this report, consultation will commence in February for a period of six weeks. A further report will then be presented to cabinet setting out feedback to this consultation and a recommendation for a preferred route for the bypass and a package of active travel measures for consideration. It is a matter for the general scrutiny committee to determine, but it may choose to exercise its right to pre-decision scrutiny of that decision.
29. Cabinet are asked to authorise the assistant director environment and place to take all steps to inform a decision to determine a preferred route for the bypass and a package of active travel measures within a maximum budget for £1m. This work will identify the merits and challenges of each route corridor in a much greater level of detail, seeking ways to maximise the benefits and mitigate any adverse impacts. Each route will be assessed using national guidance and standards across a wide range of criteria including economy, environmental and social factors alongside the feedback to consultation to enable a preferred route to be determined.

Community impact

30. The bypass is a significant transport infrastructure element of the Hereford transport strategy, linked to the promotion of social progress (by supporting housing needs), economic prosperity (by supporting new jobs, area regeneration, and business), and environmental quality (lessening the harmful impacts of traffic growth, providing an alternative route for the movement of Heavy Goods Vehicles (HGVs), and freeing up space for pedestrians and cyclists). The delivery as part of a Hereford Transport Package will enable active travel measures to be implemented to deliver benefits to communities within the city.
31. The HTP is in line with the priorities set out within the council's corporate plan and local transport plan. The scheme supports economic growth and connectivity and health and wellbeing priorities.

Equality duty

32. 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.

In taking forward the route options for the bypass and the associated package of measures and in consultation with local communities, the council will pay due regard to the public sector equality duty under the Equality Act 2010.

Resource implications

33. Spend to the end of 2016/2017 totalled £1.4m. In that financial year the council secured £590,000 external grant from Highways England to support these development costs and the remaining spend was funded from council revenue and reserve budgets.
34. Spend in 2017/2018 is forecast at £2.122m. This will be a mix of revenue followed by capital spend when the scheme is included in the councils capital programme. Revenue costs will be funded from council's revenue budgets, councils reserves budgets, external grant from Midlands Connect and then capital budget as follows and the appropriate process for allocating this funding has been followed:

Total Estimated Spend			2,122,000
Revenue Spend			1,612,000
Capital Spend			510,000
Revenue Spend			1,612,000
Funded By			
Budget			170,000
Relief Road Reserve			308,418
ECC reserve			600,000
Midlands Connect			150,000
Severe Weather Reserve			383,582
Capital Spend			510,000
Funded By			
Highway asset management & major infrastructure investment			510,000

35. Spend in 2018/2019 to confirm a preferred route and to develop a planning application for the scheme is estimated at £2.45m it is intended to be funded from the council's corporately funded prudential borrowing as is included in the proposed capital programme to be approved by Council 26 January 2018.

Legal implications

36. The policy context for delivery of this scheme is through the Core Strategy and HAP, and the Council as the highways authority will promote and deliver the scheme following set procedure.
37. The route to secure planning consent is still to be determined through discussion with the DfT and will be subject to further legal advice.
38. If the bypass meets certain size thresholds and criteria, it must be treated as a Nationally Significant Infrastructure Project (NSIP) under the relevant provisions of the Planning Act 2008 (as amended), and the council must make an application for a Development Consent Order (DCO), which will be submitted to the Planning Inspectorate (PINs) and determined by the Secretary of State for Transport. If the project is classed as an NSIP the council cannot be the determining authority for a planning application. If the criteria is not met, any planning application will be determined by the Council as the local planning authority under the Town and Country Planning Act 1990.
39. One of the determinants of whether the bypass is an NSIP is whether the Secretary of State will be the highway authority for the road. It is understood that, whilst Highways England accept the likely benefits to the strategic highway network of the bypass and recognise that, at some future date, the bypass should take the place of the current relevant part of the A49 trunk road within the strategic road network, to facilitate delivery of the objectives set out in the council's LTP, it has not yet been agreed or accepted that the Secretary of State will be the highway authority for the bypass.
40. It is understood that this criteria may be met if, at any point up to completion and operation of the road, the Secretary of State does decide to adopt the road, as part of the Strategic Road Network. Given that the bypass would be connecting the A49 trunk road in the south with the A49 in the north, and the future aspiration to de-trunk the existing A49 as it passes through Hereford, it is understood that is felt likely that the bypass will eventually become part of the Strategic Road Network.
41. It is anticipated that further consideration will be given, including guidance from the DfT, in determining whether the bypass is an NSIP.
42. Any consultation on the choice of route should be "robust", in order to reduce the possibility of a judicial review challenge. To date the Council have undertaken a robust appraisal following guidance and the national standard to avoid any successful challenge.

Risk management

43. Risk associated with the HTP project will be reviewed regularly during the progress of the scheme. Risks will be reported to and mitigation actions agreed in accordance with the councils risk management policies.
44. Residents and statutory bodies could bring successful challenge during the course of the planning application for the bypass, if the council does not carry out a robust appraisal process of the alignment alternatives. This risk will be managed through the commissioning of engineering, transport planning, and environmental professional services challenged and reviewed by an adequately resourced project team within the council and its delivery partner Balfour Beatty Living Places. The route appraisal will be carried out and documented in accordance with DfT Transport Analysis Guidance (WebTAG). Compliance with this guidance will be monitored at key stages in the project.

45. The need for significant investment in transport infrastructure is recognised by the council, the LEP, and Highways England. It is possible that the current economic climate and the reliance on various funding sources to deliver the road may affect the timing and deliverability of the bypass. The risks associated with uncertainty of funding will be managed through applications for government funding, consideration of phased delivery of the road, the development of a robust business case, and ongoing regional partnership work through both the LEP and Midland Connect to secure funds from central government.

Consultees

46. The detail of the phase 1 consultation about this project earlier this year is set out in this cabinet report above and in greater detail in the consultation report in Appendix 1.
47. Two further consultations will take place as the project progresses. Subject to this decision consultation will take place from February 2018 on the shortlist of bypass route corridors and possible active travel measures. A second consultation will take place on the preferred alignment and package of measures following a cabinet decision on a preferred route. There will be ongoing consultation with local people directly affected by the scheme, local communities and groups, parish councils and local members.
48. There is ongoing engagement with statutory consultees. This will include consultation with Highways England on transport modelling, developing the business case and establishing the required design standards; consultation with Historic England discussing options to avoid adverse impacts on heritage assets, including the setting of listed buildings; consultation with Natural England to agree the approach to the Habitats Regulation Screening Assessment and Environmental Impact Assessment; and the Environment Agency to discuss matters in relation to watercourses and flood risk, particularly design requirements for the River Wye.
49. All political groups were consulted about this report on the 4 July 2017 and comments were requested by 19 July 2017. Cllr Powers requested information on Phase 1 consultation feedback which is appended to this report

Appendices

Appendix 1: HTP Phase 1 Consultation Report

Appendix 2: Hereford Bypass Corridor Assessment Framework Report

Background papers

None

HEREFORD TRANSPORT PACKAGE PHASE I CONSULTATION REPORT

**HEREFORD TRANSPORT
PACKAGE
PHASE I CONSULTATION
REPORT**

Herefordshire Council

FINAL

Project no: 70019632



Date: August 2017

WSP

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1 INTRODUCTION

1.1 BACKGROUND

- 1.1.1 WSP was commissioned by Balfour Beatty Living Places (BBLP) on behalf of Herefordshire Council (HC) to assist with the design, delivery and reporting of public consultation on the Hereford Transport Package (HTP).
- 1.1.2 The HTP comprises a new bypass to the west of the city, and walking, cycling, bus and public space improvements. In conjunction with the Southern Link Road – a component of the conditionally funded South Wye Transport Package (SWTP) - the bypass will provide additional network traffic capacity and a new river crossing would reduce congestion in the centre and free up road space for walking, cycling, bus and public space improvements. The bypass will also support planned homes and jobs in the region.
- 1.1.3 The HTP aims to provide significant transport and wider policy benefits to Hereford, the Marches region and the wider regional and national economy. HC's LTP states that measures within the package will address a range of transport challenges in Hereford including:
- The need to accommodate planned housing and employment growth which will generate additional travel demand and congestion as set out in the Local Plan's Core Strategy;
 - Extended and unreliable journey times on the A49 corridor through the city, and on major radial routes (such as the A438 and A465) that feed into it;
 - A heavy reliance on the car to make short journeys (<2 miles) in the city, and an under-utilisation of walking, cycling and buses;
 - A single major river crossing by road, which is heavily trafficked and vulnerable to disruption; and
 - Long distance road freight using the A49 to cross the city centre.
- 1.1.4 HC, as the local highway authority, is planning to submit an application to obtain the necessary powers to deliver the Hereford Transport Package (HTP). The HTP is a critical element of HC's Transport Strategy which aims to deliver the economic, environmental and social objectives of the HC for the city.
- 1.1.5 The potential benefits of the HTP are outlined below:
- **Our transport network** – it would reduce journey times, provide an additional river crossing and reduce congestion in the city centre;
 - **Our economy** – it supports local and regional businesses and makes it easier for their staff to travel to get to work;

- **Our population growth** – it provides links to new homes across the County;
- **Our community** – it creates better access to services, and
- **Our city centre** – reduced traffic in the centre would allow for a more balanced use of the space for all users - business, residents, vehicles, pedestrians and cyclists.

1.2 PLANNING PERMISSION

- 1.2.1 HC will require planning permission for the Hereford Bypass. It is unlikely that planning permission will be required for infrastructure required for the walking, cycling and bus improvements.
- 1.2.2 The route to secure planning consent is yet to be determined through discussion with the Department for Transport (DfT), and will be subject to further legal advice.
- 1.2.3 If the project is classed as a Nationally Significant Infrastructure Project (NSIP), HC would not be the determining authority for a planning application.
- 1.2.4 If the bypass is an NSIP, the Council must make an application for a Development Consent Order (DCO), which will be submitted to the Planning Inspectorate (PINs) and determined by the Secretary of State for Transport. There are specific requirements for public consultation associated with the submission of an application for Development Consent. These requirements have been considered by HC, WSP and BBLP when developing the consultation approach.

1.3 PHASES OF CONSULTATION

- 1.3.1 HC plans to undertake three phases of public consultation during the development of the HTP project. In addition to these phases there will be on-going consultation with key stakeholders at key periods during the project. The three phases are:
- **Phase 1:** Introduce the HTP, consult on transport problems in Hereford, issues and constraints within the bypass corridor and ideas for walking, cycling and bus improvements – 4th April 2017 to 22nd May 2017
 - **Phase 2:** Present possible bypass routes and walking, cycling, bus and public space improvements – Late 2017
 - **Phase 3:** Present proposed bypass route and walking, cycling, bus and public space improvements – Mid 2018

- 1.3.2 This report summarises the approach and findings of the first phase of HTP consultation. The first phase of HTP consultation was combined with the Hereford Area Plan (HAP) Issues and Options consultation which focused on the detailed proposals, in relation to housing, jobs, employment, transport etc., to ensure the delivery of the city-specific policies in the Core Strategy. Combining the consultations helped to avoid overlapping periods of consultation, and to help communicate the link between housing growth and infrastructure development within Herefordshire.
- 1.3.3 The consultation period was held for a seven-week period, from 4th April 2017 to 22nd May 2017. The day before the consultation launch (3rd April 2017) a series of preview exhibitions were held at The Courtyard, which focused on briefing Councillors, the media, and key stakeholders (including City and Parish Councils, Environmental Stakeholders, and local interest groups).
- 1.3.4 During the consultation period exhibitions were held at two easily accessible venues in the centre of Hereford - The Courtyard and the Library.
- 1.3.5 Staffed public exhibitions took place at The Courtyard on Tuesday 4th April, Wednesday 5th April and Thursday 6th April 2017 from 11am to 7pm. This gave attendees the opportunity to discuss the project with the team and make informed comments.
- 1.3.6 A display exhibition was shown in Hereford Library from Tuesday 11th April until Friday 19th May 2017. The public were able to view the exhibition during library opening hours, providing an opportunity for people who were unable to attend the staffed public exhibitions to find out more.
- 1.3.7 All consultation information and materials were made available on the consultation webpage (www.herefordshire.gov.uk/herfordconsultation) during the consultation period. Staff were on hand Wednesdays 2-4pm to provide the opportunity to discuss the project with the team and make informed comments.

1.4 CONSULTATION OBJECTIVES

- 1.4.1 The objectives of this HTP component of the consultation were to:
- Raise awareness and inform local residents and businesses about the proposed bypass including:
 - the project objectives;
 - planning and design process; and
 - their opportunities for input.
 - Raise public awareness of the benefits of walking, cycling and bus travel, with the ultimate aim of contributing to behaviour change in Hereford.
 - Invite people who may have an interest in or may be affected by the proposals to have a say.
 - Facilitate feedback about the proposals including:

- the benefits and constraints of the bypass;
 - the type and location of walking, cycling, bus and public space improvements; and
 - other matters we need to consider prior to undertaking further planning and design work.
- Inform the three key stages of the Department for Transport's WebTAG (transport appraisal process). WebTAG stages are: 1. Option development, 2. Further Appraisal, 3. Implementation, Monitoring and Evaluation. Presumably this informs Stage 1. The next consultations will inform Stages 2 & 3

1.5 CONSULTATION REQUIREMENT

- 1.5.1 The consultation paid full regard to the principles and guidelines outlined in HC's Statement of Community Involvement, as well as the following legislation:
- Nationally significant infrastructure project (NSIP) consultation requirements set out in the Planning Act 2008 – although the first phase of consultation was not a statutory phase of consultation to NSIP consultation requirements were considered when developing the approach;
 - WebTAG consultation requirements – the outcomes of the consultation need to contribute to Stages 1 (Options Development) and 2 (Selected a shortlist of options) of the WebTAG process;
 - Localism Act 2011 – the need for the promoter of a 'large scheme', to undertake pre-application consultation; and
 - Equality Act 2010 – the general equality duty to eliminate discrimination and ensure inclusion of nine protected characteristics: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 1.5.2 In addition, the consultation approach was developed considering the 'Gunning Principles'¹, which are used to assess expectations about what constitutes 'fair' consultation. These Principles include:
1. Consultation must take place when the proposal is still at a formative stage.
 2. Sufficient reasons must be put forward for the proposal to allow for intelligent consideration and response.
 3. Adequate time must be given for consideration and response.
 4. The product of consultation must be conscientiously taken into account.

¹ [https://www.newLawjournal.co.uk/content/consultation-matters](https://www.newlawjournal.co.uk/content/consultation-matters)

2 PROMOTION

2.1 INVITATIONS

2.1.1 Stakeholder mapping and analysis was undertaken prior to the exhibitions to identify relevant stakeholder and community organisations. A range of letter invitations were sent out to stakeholders, these either invited them to attend the preview events or a public exhibition. All letters included some context information about the HTP and consultation, and provided a link to the consultation website for further information.

2.1.2 Invitations were sent to:

- Herefordshire, Hereford and Parish Councillors, and other officials, inviting them to a preview exhibition on the 3rd April at The Courtyard from 11am to 2pm. The invitations were sent by email (58) and post (3 letters) on 16th and 17th March 2017
- Key and non-statutory stakeholders (such as environmental, local interest and transport stakeholders) inviting them to a preview exhibition on 3rd April at The Courtyard from 4pm to 6pm. The invitations were sent by email (67) and post (6) on 16th and 17th March 2017
- Businesses inviting them to a 'business breakfast' on Tuesday 4th April between 7am and 9am. These invitations were sent by HC's economic development team via email on 16th and 17th March 2017.
- Landowners inviting them to attend one of the open public exhibitions. Letters were sent out on 13th March 2017. In total, 248 landowners were contacted by post, and 9 invited by email. The emails were sent on 16th and 17th March 2017.

2.1.3 Electronic copies of the consultation flyer were also sent to a database of 660 local stakeholders and members of the public who had previously been involved in HC consultations, and had expressed an interest in hearing from HC.

Reminders of the upcoming consultation were sent out to email addresses of councillors, partners and other stakeholders on 11th May. Landowners did not receive this reminder.

2.2 POSTER AND FLYER ADVERTISING

2.2.1 A4 Posters and A5 flyers advertising the exhibitions were displayed from two weeks before the start of the consultation in local businesses and public buildings across Hereford. These were distributed in person between 16th March 2017 and 31st March 2017. The flyers and posters contained the same content and are displayed in **Appendix A**. In total, 114 posters and 2,010 leaflets were distributed to businesses, village halls, doctor's surgeries and libraries.

2.2.2 Another 1,000 flyers were printed for the exhibitions and for the 'Choose How You Move' Team to distribute.

2.2.3 The locations of posters and flyers are illustrated in **Appendix B**.

2.3 MEDIA ADVERTISING

NEWSPAPER

2.3.1 Two press releases were issued to Hereford Times and Worcester News, one ahead of the consultation (4th April 2017) and one during the consultation (15th April). The first press release (see **Appendix C**) resulted in the publication of the following news article: -

http://www.herefordtimes.com/news/15202410.Western_bypass_could_be_built_by_2025/

2.3.2 Half page adverts were printed in the Hereford Times on 16th, 23rd and 30th March 2017. Online promotion on Hereford Time's website commenced on 16th March 2017 and completed on Sunday 21st May 2017. In article mid-page units (MPU's) and Double Height MPU's were also used to promote the consultation – half of these appeared before the consultation and the other half during the consultation. The MPU's resulted in 179,897 impressions and 2,836 click-throughs to the website.

2.3.3 Sponsored content was also advertised on the Hereford Times website with both pre-exhibition editorials (Monday 20th March 2017 to Thursday 6th April 2017) and post-exhibition editorial (Sunday 7th May 2017 to Sunday 21st May 2017). Results are seen below in

2.3.4 Table 2.1.

Table 2.1- Pre and post editorial details

PRE-EXHIBITION EDITORIAL	POST-EXHIBITION EDITORIAL
50,000 page impressions	50,000 impressions
277 link clicks	329 link clicks
0.55% Click through ratio	0.66% click through ratio

RADIO

2.3.5 BBC Hereford & Worcester ran radio adverts to promote the exhibition, commencing on Tuesday 21st March 2017. This consisted of 56 x 30sec commercials per week, over a 14 day period until Monday 3rd April 2017. There were also three live reads per day over a 10 day period. A second advert was released on Friday 7th April 2017 to promote the online survey, and ran for six weeks:

- Week 1 – 50 adverts per week
- Week 2 – 40 adverts per week
- Week 3 – 30 adverts per week
- Week 4 – 30 adverts per week
- Week 5 – 40 adverts per week
- Week 6 – 50 adverts per week

2.3.6 There was also three live reads per day over a 10 day period.

SOCIAL MEDIA

2.3.7 Social Media was used to advertise the consultation and public exhibitions, to promote the online questionnaire, and to gather feedback from the community.

2.3.8 The website, invitations, brochure, and display panels included the Facebook addresses **/Hereford2020** and **/hfdscouncil**, and Twitter handles **@Hereford_2020** and **@HfdsCouncil**.

2.3.9 Table 2.2 below summarises the social media activity used to promote the consultation:

Table 2.2- Social media activity

DATE	ADVERTISING	LINK	REACH	SHARES/ RESPONSES	COMMENTS
Facebook					
16/03/17	Exhibition advert	https://www.facebook.com/Hereford2020/photos/a.976410022420436.1073741829.9654521568495	10,497	27	27
16/03/17	Event advert	https://www.facebook.com/events/420577148292867/	9,000	87	2

16/03/17	Event advert	https://www.facebook.com/events/985572538240116/	3,300	16	3
16/03/17	Exhibition advert	https://www.facebook.com/hfdscouncil/photos/a.169384159864532.39139.168998463236435/974117436057863/?type=3&theater	1,001	11	0
19/03/17	Exhibition advert	https://www.facebook.com/hfdscouncil/photos/a.169384159864532.39139.168998463236435/975941442542129/?type=3&theater	2,027	0	1
23/03/17	Exhibition advert	https://www.facebook.com/hfdscouncil/photos/a.169384159864532.39139.168998463236435/978529785616628/?type=3&theater	1,318	1	0
Twitter					
16/03/17	Exhibition advert	https://twitter.com/HfdsCouncil/status/842314720417873921	2,373	16	0
19/03/17	Exhibition advert	https://twitter.com/HfdsCouncil/status/843409242845593601	1,264	4	0
23/03/17	Exhibition advert	https://twitter.com/HfdsCouncil/status/844926759535562755	1,357	5	0
01/04/17	Exhibition advert	https://twitter.com/HfdsCouncil/status/848097653065961473	1,177	7	1
04/04/17	Live tweet from exhibition	https://twitter.com/HfdsCouncil/status/849240872625614848	2,221	5	0
19/04/17	Have your say (link to questionnaire)	https://twitter.com/HfdsCouncil/status/854771791725768704	943	1	0

- 2.3.10 A sample of the advertising taken from the Twitter feed on the 1st April 2017 is shown below in Figure 2-1. This same advert was also tweeted on the 16th and 20th March beforehand.

Figure 2-1 - Advertising on Twitter before the consultation



- 2.3.11 Social media was also utilised to advertise the consultation throughout the process, as shown by

- 2.3.12 Figure 2-2 below.

Figure 2-2 – Advertising on Twitter during the consultation



3 CONSULTATION METHODS

3.1 PREVIEW EXHIBITIONS

3.1.1 A series of preview exhibitions were held to engage with selected key stakeholders about the proposal prior to information being released to the public. The previews were attended by 102 stakeholders including councillors, the media, statutory stakeholders and special interest stakeholders (local and regional). All of the previews were held at The Courtyard, before the main public exhibition. The times and dates of all events, and a breakdown of attendance, are shown in Table 3.1.

3.2 PUBLIC EXHIBITIONS

3.2.1 Staffed exhibitions took place on 4th, 5th and 6th April 2017 from 11am to 7pm. A breakdown of attendance at the public exhibitions is shown below in Table 3.1.

At each exhibition, there were opportunities for the public to provide feedback and comments, as well as ask questions and request further information. Staff were provided with feedback/query sheets to document verbal feedback and/or questions that could not be answered on the day but required a follow-up response. During the exhibitions, there were 30 written comments and/or requests for information.

Table 3.1 – Preview event details

DATE	EVENT	VENUE	TIME	NUMBER OF ATTENDEES
Monday 3rd April	Councillors preview	The Courtyard, Edgar Street, Hereford, HR4 9JR	11am – 2pm	79 (45 signed-in, 34 chose not to)
Monday 3rd April	Media preview		3pm – 4pm	
Monday 3rd April	Stakeholder preview		4pm – 6pm	
Tuesday 4th April	Business (and media) breakfast		7am – 9am	
Total number of preview attendees				102
Tuesday 4th April	Public exhibitions	The Courtyard, Edgar Street, Hereford, HR4 9JR	11am – 7pm	141
Wednesday 5th April			11am – 7pm	115
Thursday 6th April			11am – 7pm	81
Tuesday 4th April			11am – 7pm	141
Total number of public exhibition attendees				337

3.3 OTHER ACTIVITIES

- 3.3.1 A display exhibition was set-up following the completion of the public exhibitions (week two of the consultation). This provided an opportunity for those who were unable to attend the public exhibitions a chance to view the materials. It was located in a central location (Hereford Library) to encourage passers-by to find out more about the HTP. The display was staffed each Wednesday afternoon, between 2pm and 4pm. Materials could be viewed during library opening hours between Tuesday 11th April and Friday 19th May 2017.
- 3.3.2 To target younger people who are typically underrepresented during consultation processes, an event was held at Herefordshire and Ludlow College, Hereford Campus on Tuesday 23rd May 2017, from 10.30am to 2pm. The event was advertised by the college who distributed flyers to students a few weeks prior to the event. It was held in the Library to target students passing by the display. Rather than ask students to complete the questionnaire, a series of A1 posters were developed, each with a different question for students to answer using post-it notes. One of the questions related to transport in Hereford – this was ‘How could travelling in and around the city be made safer and easier?’.

3.4 EXHIBITION MATERIALS

- 3.4.1 A suite of exhibition materials were developed to provide the public with the information they needed to provide informed feedback. More Information on HTP focussed materials follows.
- 3.4.2 Six A1 display panels that provided an introduction to the consultation and an overview of the current transport problems, broad objectives of the HTP, information about the improvements, and the next steps. The panel content is shown in **Appendix D** and summarised below:
- Welcome – what is the HTP? Why are HC consulting?
 - Problems – current transport problems in Hereford
 - Objectives – Objectives HTP aims to achieve
 - Bypass – What has been done so far? What happens next?
 - Walking, cycling and bus improvements – examples of possible improvements
 - Next Steps – Timeline of HTP.
- 3.4.3 Other HTP related materials included :
- Large (A0) maps of Hereford and the environmental issues/constraints
 - Copies of the A5 Flyers with details of the consultation events and webpage
 - A3 copies of the display panels to accommodate people unable to view the bigger panels
 - The consultation survey and freepost envelope

- 3.4.4 There was also information on the HAP, fly-throughs and visualisations of schemes that had been delivered, and the Virtual Reality (VR) Headset. The VR headset showed a visual artists impression of the new public realm in Hereford City Centre and can be seen in use in Figure 3-4

Figure 3-1 - HTP boards on display at The Courtyard

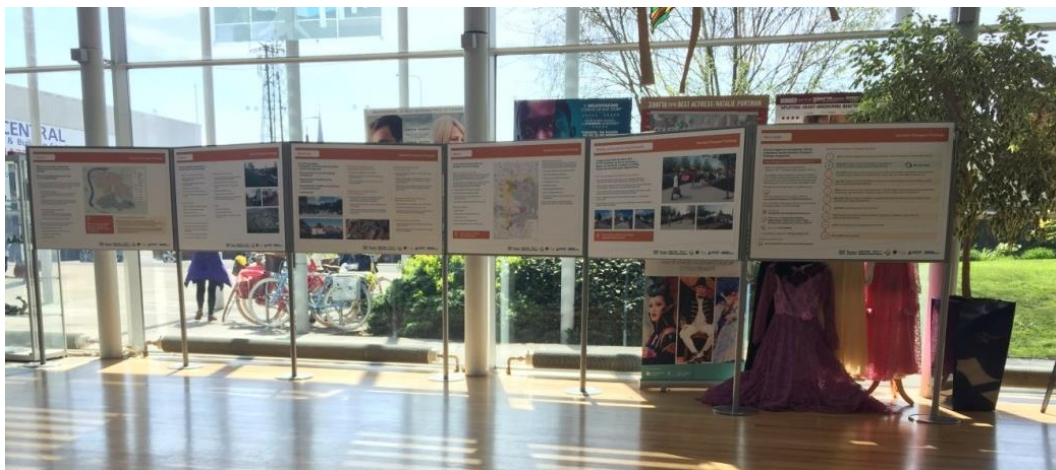


Figure 3-2 - Public exhibition



Figure 3-3 - Visitors at the public exhibition viewing the visualisations and fly-throughs



Figure 3-4 - Visitor using the VR headset



3.5 WEBPAGE

- 3.5.1 A consultation webpage (www.herefordshire.gov.uk/HerefordConsultation) was set-up to allow people to access information about the HAP and HTP, and the consultation 24 hours a day, seven days a week. The webpage provided links to the exhibition panels, maps and frequently asked questions.
- 3.5.2 The website also contained a link to an online version of the consultation questionnaire.
- 3.5.3 The webpage had a holding message on it prior to the launch of the public consultation, and then was live for the entirety of the public consultation period – Tuesday 4th April to Monday 22nd May 2017.
- 3.5.4 Over the course of the consultation period, the consultation webpage was viewed by 2,781 unique visitors.
- 3.5.5 During the consultation, written submissions were accepted via the consultation email address (herefordconsultation@balfourbeatty.com) and via post (using the freepost address).

4 DATA

4.1 QUESTIONNAIRES

4.1.1 The main channel for feedback was the consultation survey. . This was a combined survey with questions relevant to the HAP and HTP and the consultation included 61 questions; seven of these were relevant to the HTP. The HTP questions explored the following topics:

- Movement (questions 16 and 20) as part of the HAP section
- Existing transport conditions (questions 46-48)
- The proposed Hereford Bypass (question 49)
- The proposed walking, cycling, bus and public space improvements (questions 50-52)

4.1.2 The survey was available to complete:

- Via iPads at the exhibition
- In hard copy – available at all exhibitions, and upon request
- Online on the consultation website.

4.1.3 All surveys were entered onto the online survey platform 'Survey Monkey' in the following location - <https://www.surveymonkey.co.uk/r/HerefordConsult>.

4.1.4 This consultation questionnaire can be seen in **Appendix E**.

4.1.5 The questionnaire was available in hard copy and online for the entirety of the consultation period – Tuesday 4th April to Monday 22nd May 2017. It was agreed with HC to accept returns of items to the Freepost address up to the Monday 29th May 2017 to allow for postal delays; however, no surveys were delivered after the 12th June 2017. The online survey was closed and the final results collected on the 31st May 2017.

4.1.6 A total of 1,467 questionnaires were completed during the six week period – 1,400 were completed online and 67 were hard copy responses. Of these, 671 responded to at least one of the questions regarding the HTP. The HTP related responses are summarised in Section 5.

4.2 COMMUNITY VIEWS

4.2.1 During the exhibitions, 30 staff feedback forms were completed which had comments about the HTP, seven of these required responses, which were dealt with in the weeks following the exhibitions. The remaining 23 were comments or suggestions left by members of the public. These are summarised in Section 5.

4.3 WRITTEN SUBMISSIONS

4.3.1 During the consultation period, 11 stakeholder organisations chose to respond about the HTP. These included responses from:

- Church Commissioners for England
- Hereford and Worcester Gardens Trust
- Hereford Civic Society
- Hereford Market
- Hereford Sustainable Transport Group
- Historic England
- Natural England
- Powys Council
- Savills on behalf of Golf Inns
- Taylor Wimpey
- Woolhope Naturalists Fields Club

4.4 PETITIONS

4.4.1 There were a total of 35 completed petition forms received during the consultation period from local residents in Hereford and the surrounding area. 30 of these responses used templates available from the Breinton Parish website as shown in **Appendix F**. These templates covered the themes of environment, freight, economy and sustainable transport.

5 ANALYSIS

5.1 QUESTIONNAIRES

- 5.1.1 This section summarises the feedback received in the consultation survey relating to the HTP section (questions 46 – 52) and the HAP questions (questions 16 and 20) which had a more broad relevance to transport. 671 respondents chose to reply to at least one of the HTP questions or the HAP questions (questions 16 and 20) which had relevance to transport more broadly.
- 5.1.2 All of the quantitative data is presented graphically and qualitative data has been analysed and grouped into key themes.
- 5.1.3 A summary of the findings of each survey question relevant to the HTP follows. These are analysed in the order of questions asked.

5.2 HAP QUESTIONS RELATING TO THE BYPASS

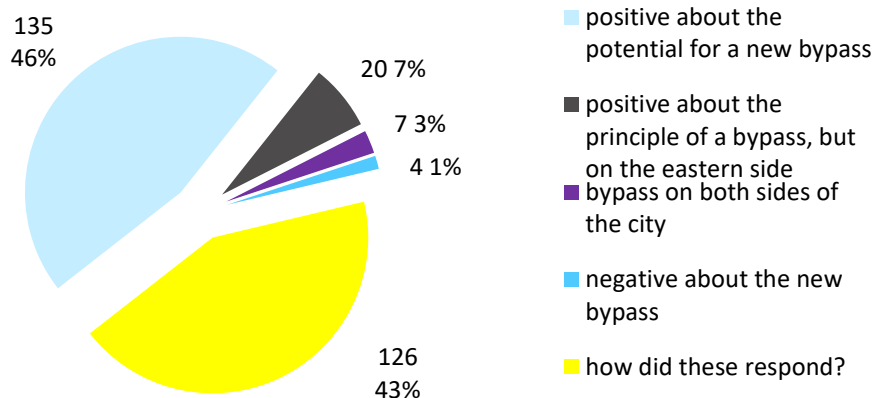
QUESTION 16: HOW CAN ACCESS TO THE RAILWAY STATION BE IMPROVED?

- 5.2.1 Of the 264 responses to question 16 in the HAP section of the questionnaire, eight made reference to a bypass as a solution to improving access to the railway station as it would remove traffic and congestion from the city centre. Example comments include:
- 5.2.2 “Build a bypass and alleviate city centre traffic”
- 5.2.3 “Remove traffic from the major route into town by creating a bypass”

QUESTION 20 - CAN YOU SUGGEST BETTER WAYS TO MANAGE FREIGHT TRANSPORTATION THROUGHOUT THE CITY?

- 5.2.4 Question 20 in the HAP section of the questionnaire resulted in several references to the bypass. 166 (57%) out of the 292 people who responded to question 20 referenced the bypass in their response. Of these 166 responses:

**QUESTION 20 - CAN YOU SUGGEST BETTER WAYS TO MANAGE
FREIGHT TRANSPORTATION THROUGHOUT THE CITY?**



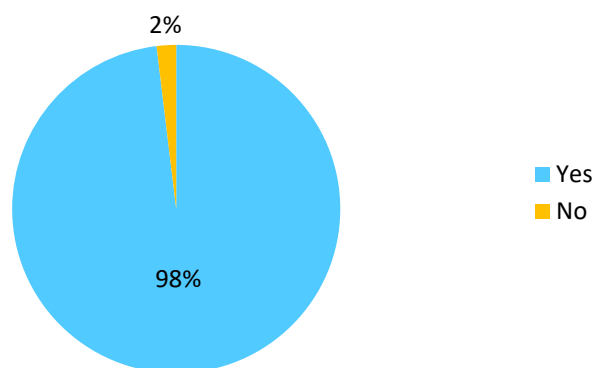
- 135 (46%) were positive about the potential for a new bypass, and made no reference to which side they thought the bypass should be built. Example comments include:
 - “Build a bypass which takes heavy traffic out of surrounding villages”
 - “Bypass so as HGV and agricultural equipment don't have to use city centre - all roads surrounding Hereford are poorly designed with few opportunities to pass slow moving vehicles”
- 20 (7%) were positive about the principle of a bypass, but suggested this should be on the eastern side of the city to connect to Rotherwas, major motorways and neighbouring villages
 - “Put the bypass east of the city where all the main road links are and industry is.”
 - “Build a bypass to the east of the city to link up with the Worcester road from the Rotherwas Industrial Estate.
 - “Build a bypass to join on to the road to Ledbury”
- 7 (2%) suggested a bypass on both sides of the city, or all the way the city.
 - “A bypass, built around the city. NOT at one side, ALL the way round.”
 - “A Ring road that actually bypasses the city on all sides. The East-West crossing debate shows that we need both, not one or the other! People need to get to their destination and alleviate the mind numbing and unnecessary chug through the city. It would be friendlier to cyclists too”.
- 4 (1%) were negative about the new bypass because participants expressed:
 - Traffic should be controlled and regulated, rather than build for more vehicles.
 - Need for a few river crossings to connect into existing roads.

5.3 HTP QUESTIONS

QUESTION 46: DO TRAFFIC CONDITIONS IN HEREFORD NEED TO BE IMPROVED?

5.3.1 Of the 671 respondents to the HTP section, 627 (93%) chose to respond to the first of the HTP questions. Their responses to this are shown in Figure 5-1.

Figure 5-1 – Do traffic conditions in Hereford need to be improved?



5.3.2 A significant majority of respondents (98%) agree the traffic conditions in Hereford need to be improved; with only 2% disagreeing this. This reiterates the importance of transport infrastructure improvements across Hereford.

QUESTION 47: WHAT DO YOU THINK ARE THE CURRENT TRANSPORT PROBLEMS IN HEREFORD?

5.3.3 Respondents were given the opportunity to rank the current transport problems in Hereford from a list of 12 options. They were asked to rank up to five, with 1 being the biggest problem, 2 being the second biggest problem etc. Respondents could only pick five of the 12 transport problems.

5.3.4 The current transport problems for comment included:

- Traffic congestion
- Volume of heavy goods vehicles
- Long delays at signal junctions
- Poor public transport links to rural areas
- Poor cycling/walking infrastructure
- Dependency on car use
- Poor access to public transport

- Vehicle emissions
- Poor air quality
- Difficulty crossing busy roads
- Traffic noise
- Lack of pedestrian crossings

5.3.5 To aid the collective analysis of the data received, the scores (1-5) have been weighted to demonstrate the importance placed on the response:

5.3.6 During analysis:

- The measure identified as the most important (1) has been given a score of 5;
- The measure identified as the 2nd most important (2) was given a score of 4;
- The measure identified as the 3rd most important (3) was given a score of 3;
- The measure identified as the 4th most important (4) was given a score of 2;
- The measure identified as the 5th most important (5) was given a score of 1.

5.3.7 Once the responses were weighted the number of weighted responses for each issue was added together to give one total score. The maximum possible score for each factor was 3,140. This means that if every respondent to the question selected an issue as the biggest problem the total score would be 3,140.

5.3.8 The biggest perceived problems are shown in Table 5.1 below.

Table 5.1 - Transport problems - ranked

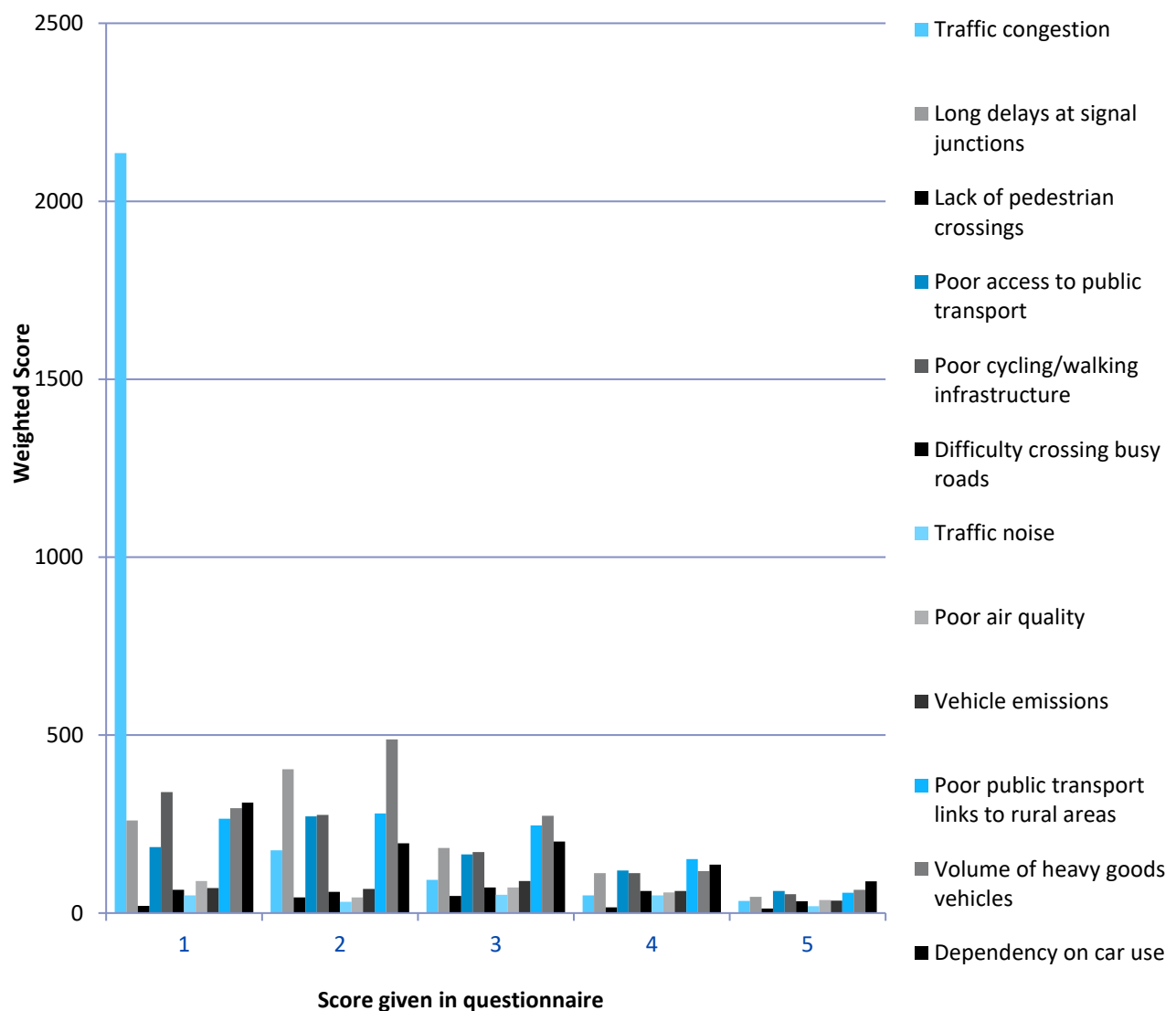
PROBLEM	OVERALL RANK	TOTAL SCORE ¹	PERCENTAGE OF MAXIMUM POSSIBLE SCORE ²
Traffic congestion	1	2,488	79%
Volume of heavy goods vehicles	2	1,239	39%
Long delays at signal junctions	3	1,005	32%
Poor public transport links to rural areas	4	1,000	32%
Poor cycling/walking infrastructure	5	952	30%

¹ The total score is a weighted calculation. Items ranked first are valued higher than the following ranks, the score is a sum of all weighted rank counts.

² The percentage of maximum possible score shows how close to the possible 100% of participants each response is. It has been developed to aid the comparison of responses only and does not reflect the percentage of people that chose the topic.

- 5.3.9 Upon calculation, the weighted scores identified the current biggest transport problem in Hereford is traffic congestion – the score for this issue was significantly higher than any other response. The volume of heavy goods vehicles was identified as the second biggest transport problem. Long delays at signal junctions, poor public transport links to rural areas, and poor cycling/walking infrastructure received a similar score as the respondents' third, fourth and fifth biggest transport problems.
- 5.3.10 The responses to all of the problems that were listed are illustrated in
- 5.3.11 Figure 5-2, which shows the top five transport problems according to number of responses for each rank given. It can be seen that traffic congestion has the most consensus of the biggest problem in Hereford. Conversely, lack of pedestrian crossings was seen as the least current problem in Hereford.

Figure 5-2 - Transport Problems



QUESTION 48: MOST SHORT DISTANCE JOURNEYS IN HEREFORD ARE MADE BY CAR. WHAT DO YOU THINK PUTS SOME PEOPLE OFF WALKING, CYCLING OR USING THE BUS FOR SHORT TRIPS?

5.3.12

This was an open question, in which respondents had the opportunity to express the reasons why they believe people don't walk, cycle or use public transport for short distance journeys. There were 562 respondents (84%) that covered a range of topics. The most common five reasons suggested were:

- Safety;
- Poor bus services;

- Cost of public transport;
- Lack of walking and cycling infrastructure; and
- Inconvenience.

5.3.13 They have been categorised as best as possible and the primary recurring themes are identified in Table 5.2. Responses often covered more than one reason and included in Table 5.2.

Table 5.2 – What puts people off using active/sustainable travel?

COMMENT THEME	EXAMPLE COMMENTS	NUMBER OF RESPONSES
Safety	<p>“Cycling I feel is too dangerous with congested roads, not enough cycle paths. Same applies for walking, there are often parts of my journey on foot which don't have a designated footpath and I have to walk on the road, sharing with lorries when I walk to work.”</p> <p>“The speed limits are not policed. Most areas in town should have 20 zones yet most people travel at speeds higher than the current 30 limit.”</p>	130
Quality of public transport	<p>Comments included reference to buses unreliability, the infrequency of services, poor public transport information, and disconnected networks</p> <p>“The cost of the bus is ridiculous for the service provided.”</p> <p>“Yeomans 77 Bobblestock circular bus £2.20 single or £4 day hopper as no return provided, is that reasonable when most journeys are less than 2 miles??”</p> <p>“The inconvenience of having to gear journey times to bus schedules.”</p> <p>“Time pressure means people need to get from A to B quickly. Public transport is expensive and not frequent enough.”</p> <p>“Buses and trains are not frequent enough or reliable- often late or cancelled. Often no public transport at all to places you want to get to”</p>	301
Lack of walking and cycling infrastructure	<p>“Lack of off-road cycle routes”</p> <p>“Extremely poor infrastructure for cycling across Hereford, west-east and North-South. Needs fully segregated cycle lanes, not just paint on already overcrowded roads so children and novice cyclists can use”</p> <p>“The network of cycle paths is fragmented and needs to be properly joined up”</p> <p>“Cycle paths often do not interconnect and too often end at difficult and potentially hazardous junctions”.</p>	181

	<p>“there are not enough safe cycle routes around the city”</p> <p>“Poor crossing points for pedestrians with crossings that take far too long to change”</p> <p>“Walking is not a pleasant experience as you either have to walk on off road paths which are lonely and dangerous or alongside busy roads. Pedestrian facilities in Hereford are poor with poor quality pavements full of pot holes and pedestrian crossings where you wait for ages for the signal to change.”</p> <p>“It's too noisy, pavements are poor quality, either broken block paving, sloping or too narrow and shared with bicycles, which causes problems as there is no discipline”</p> <p>“Very limited access to secure cycle parking.”</p> <p>“Lack of secure cycle infrastructure (e.g. there needs to be good quality CCTV looking on to bike parking as so many are stolen which puts people off cycling)”</p>	
Laziness	<p>“A culture of laziness / inactivity”</p> <p>“Laziness”</p>	57
Poorly maintained infrastructure	<p>“Badly maintained roads (potholes) and pavements which increase dangers to cyclists.”</p> <p>“Poorly maintained pavements and cycle-ways. Most suffer from flooding, large puddles, leaves and mud which people don't want to have to walk through. And most aren't gritted in winter.</p>	54
Total number of comment themes		793

QUESTION 49: WE ARE IN THE EARLY STAGES OF IDENTIFYING POSSIBLE BYPASS ROUTES. HOW IMPORTANT DO YOU THINK THE FOLLOWING FACTORS ARE IN CHOOSING THE BYPASS ROUTE?

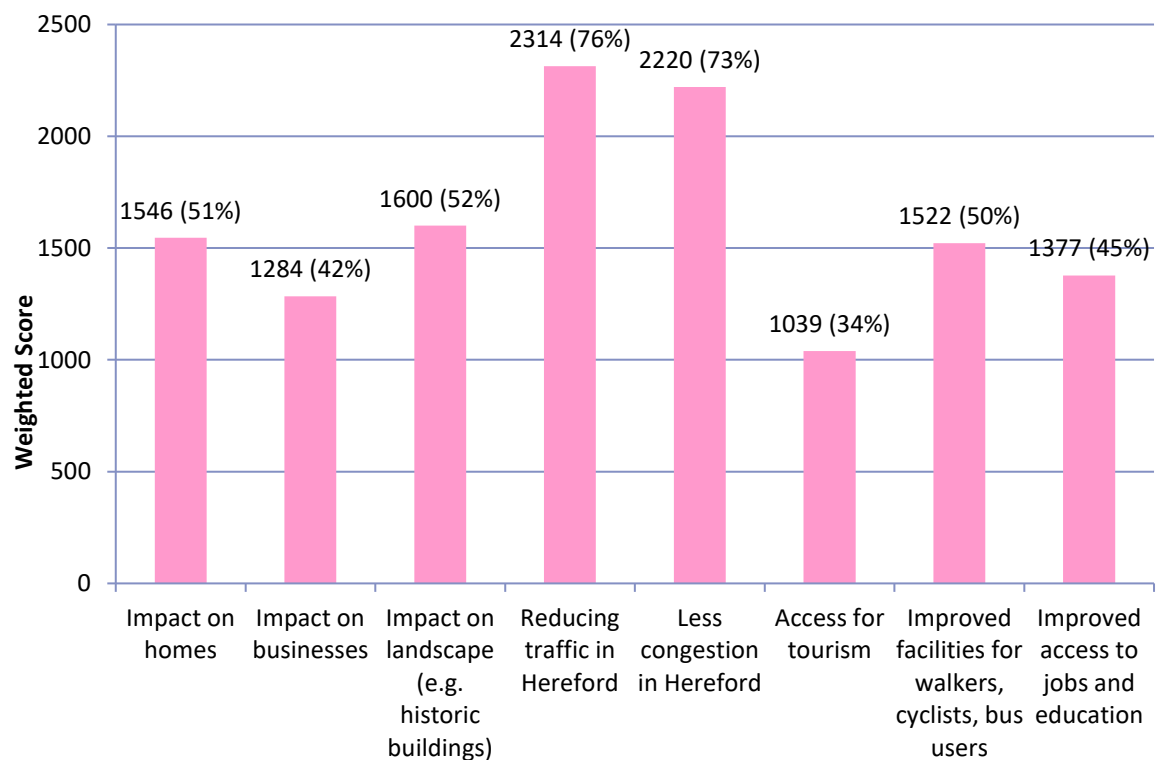
- 5.3.14 The following factors were identified in the questionnaire:
- Impact on homes
 - Impact on businesses
 - Impact on landscape (e.g. historic buildings)
 - Reducing traffic in Hereford
 - Less congestion in Hereford
 - Access for tourism
 - Improved facilities for walkers, cyclists, bus users
 - Improved access to jobs and education
- 5.3.15 98% (612) responded to this question. Respondents were asked to rank factors 1 to 5; 1 being very important and 5 being not important at all. Respondents could pick five of the eight responses.
- 5.3.16 To aid the collective analysis of the data received, the scores (1-5) have been weighted to demonstrate the importance placed on the response:
- 5.3.17 During analysis:
- The measure identified as the most important (1) was given a score of 5;
 - The measure identified as the second most important (2) was given a score of 4;
 - The measure identified as the third most important (3) was given a score of 3;
 - The measure identified as the fourth most important (4) was given a score of 2; and
 - The measure identified as the fifth most important (5) was given a score of 1.
- 5.3.18 Once the responses were weighted the number of weighted responses for each issue was summed together to give a total score. The maximum possible score for each factor was 3,060. This means that if every respondent to the question selected an issue as the most important the total score would be 3,060.

Table 5.3 – Factors to consider - ranked

FACTOR	OVERALL RANK	TOTAL SCORE ¹	PERCENTAGE OF MAXIMUM POSSIBLE SCORE ²
Reducing traffic in Hereford	1	2,314	76%
Less congestion in Hereford	2	2,200	72%
Impact on landscape (e.g. Historic Buildings)	3	1,600	52%
Impact on homes	4	1,546	51%
Improved facilities for walkers, cyclists and bus users	5	1,522	50%
<p>¹ The total score is a weighted calculation. Items ranked first are valued higher than the following ranks, the score is a sum of all weighted rank counts.</p> <p>² The percentage of maximum possible score shows how close to the possible 100% of participants each response is. It has been developed to aid the comparison of responses only and does not reflect the percentage of people that chose the topic.</p>			

- 5.3.19 The weighted scores show that reducing traffic and less congestion in Hereford were the two most important factors when choosing the bypass route. The impact on landscape (such as Historic Buildings), impact on homes and opportunities to improve facilities for walking, cyclists and bus users received a similar score as the respondents' third, fourth and fifth most important considerations. Access to tourism was the least popular factor when identifying possible bypass routes.
- 5.3.20 The responses to all of the problems that were listed are illustrated Figure 5-3.

Figure 5-3 - Factors when choosing possible bypass routes



QUESTION 50: WHICH OF THE FOLLOWING IMPROVEMENTS DO YOU THINK ARE YOUR PRIORITIES? ON A SCALE OF 1 TO 5 (1 BEING VERY IMPORTANT AND 5 BEING NOT IMPORTANT AT ALL), HOW IMPORTANT ARE THE FOLLOWING FACTORS TO YOU?

5.3.21 The improvements identified in the questionnaire were:

- Safer and better walking routes (for example, the provision of wider footways, improved pedestrian crossing facilities, reduced speed limits and traffic-free routes)
- Safer and better cycling routes (for example, the creation of dedicated cycle lanes, cycle friendly junctions, reduced speed limits and traffic-free routes)
- More reliable and quicker bus journeys (for example, bus priority on key routes into and out of the city)

- More attractive public space (for example, boulevard-style streets, shared space and the planting of trees to create green corridors)
- More reliable and quicker journeys by car (for example more traffic lanes and measures that prioritise cars)

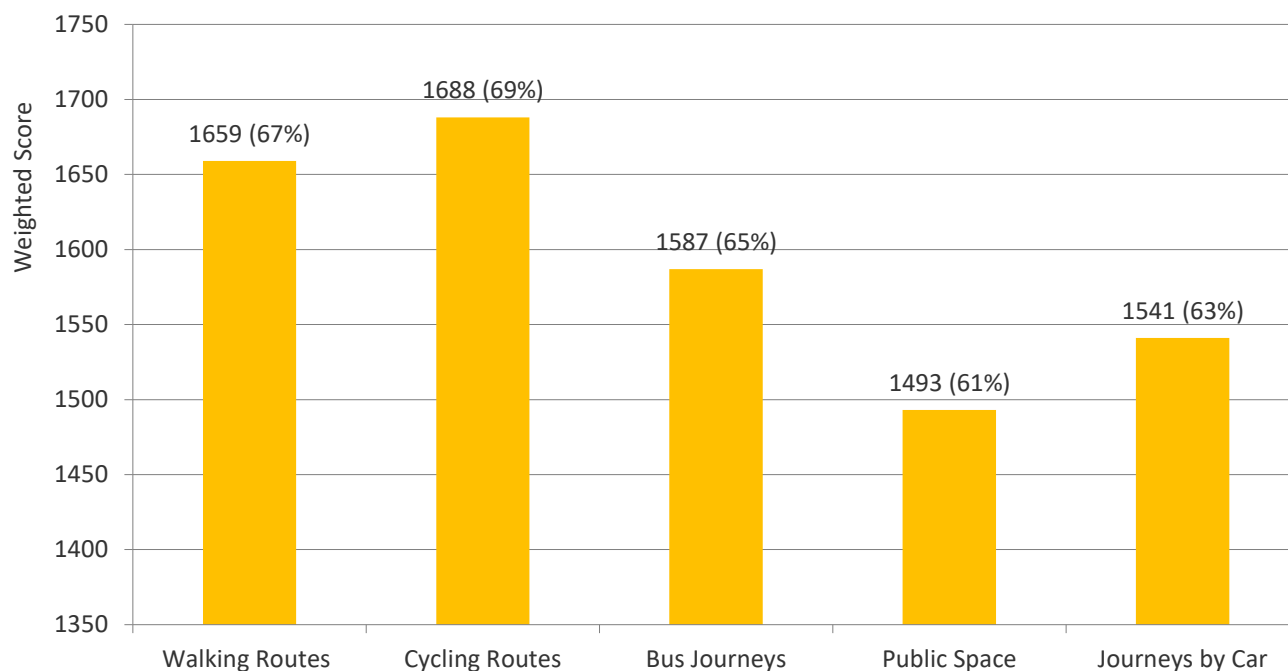
5.3.22 Respondents were asked to score the improvements 1 to 5 (1 being very important and 5 being not important at all). 79% (492) respondents answered this question.

5.3.23 To aid the collective analysis of the data received, the scores (1-5) have been weighted to demonstrate the importance placed on the response:

5.3.24 During analysis:

- The measure identified as the biggest priority (1) was given a score of 5;
- The measure identified as the second biggest priority (2) was given a score of 4;
- The measure identified as the third biggest priority (3) was given a score of 3;
- The measure identified as the fourth biggest priority (4) was given a score of 2; and
- The measure identified as the fifth biggest priority (5) was given a score of 1.

5.3.25 Once the responses were weighted the number of weighted responses for each issue was summed together to give a total score, with the maximum possible score being 2,460. Results are shown in Figure 5-4.

Figure 5-4 - Priority improvements

- 5.3.26 Safer and better cycling and walking routes scored the highest as priority improvements. More attractive public space was the improvement which scored as the lowest priority.

QUESTION 51: ARE THERE ANY LOCATIONS WHERE YOU THINK WALKING, CYCLING, BUS AND PUBLIC SPACE IMPROVEMENTS WOULD BE BENEFICIAL? PLEASE WRITE UP TO THREE LOCATIONS, PROBLEMS AND YOUR SUGGESTED SOLUTIONS.

- 5.3.27 The comments in question 51 of the consultation survey cover a broad range of locations, problems and solutions. Comments have been categorised by identifying the primary recurring themes, queries and concerns have been extracted. 36% (228) of respondents chose to answer question 51. Of those 228 respondents, 70% chose to identify 2 locations, and 42% identified 3 locations. Locations within High Town/ City Centre had the most feedback and suggested solutions. The majority of the comments included more than one suggested improvements.
- 5.3.28 The most commonly referenced locations are highlighted below in
- 5.3.29 Table 5.4.
- 5.3.30 The percentages in the identified problems column represent the number of comments in that category. Percentages are only provided if a problem was identified on more than one occasion. The suggested locations for improvements outside of Hereford have also been mapped in Figure 5-5.

Table 5.4 - Locations for walking, cycling, bus and public space improvements

LOCATION	IDENTIFIED PROBLEMS	SUGGESTED IMPROVEMENTS	NUMBER OF RESPONSES
Hereford (general)	Lack of cycle infrastructure (35%) Congestion (15%) Poorly maintained roads (13%) Lack of signage (10%) Poor pedestrian infrastructure (10%) No Park and Ride (7%) Poor public realm (5%) Lack of public transport / access to bus station (5%)	Cycling Lanes Bypass Cleaner public realm Park and Ride Maintenance of infrastructure Signage	66 (14%)
Areas in Hereford	Belmont – Crime on Great Western Way, conflict between pedestrians and cyclists	Better CCTV and official pathways	62 (13%)
	Hereford Enterprise Zone – not enough bus services to cater for shift workers, incomplete cycle network, poorly maintained environment	Later/Earlier bus services Cycle infrastructure that links better to residential areas Improved signage Maintenance of footways and cycleway	
	Lower Bullingham – Speeding vehicles, illegal parking, shared-use pavements	Traffic calming Police enforcement Cycle path	
	Tupsley – no cycle paths, poor road surface and too many speed humps	Provide cycle paths Maintenance of infrastructure Remove traffic calming	
	Whitecross – poor visibility, no footpaths on Breinton Road/ Westfaling Street	Prohibit parking Breinton Road – one way	

		Create pavements	
	Widemarsh – Congestion, hazardous parked cars	Bypass Parking restrictions Pedestrianisation	
	Open/ Public Spaces – poor maintenance (overgrown vegetation, litter, vandalism etc...), poor quality playgrounds, discontinuous river path, safety at night, poor connections between open space	CCTV / police presence Cycle paths On-going maintenance All weather footpaths along the River Wye Resurface pavements	
High Town / City Centre	Congestion (22%) Difficult pedestrian crossings (16%) Unsafe for cyclists and poor cycling network/infrastructure (22%) Poor public realm, empty shops (22%) Traffic management (14%) Traffic speeds (4%)	Bypass Cycle Lanes Improved pedestrian crossings and times Pedestrianisation Lower rents to reduce empty shops Reduce speed limit to 20mph Public Realm improvements	57 (12%)
A438 Whitecross Road	Poor cycling provision (32%) Congestion (28%) Poor pedestrian environment – lack of safe crossings, narrow footpaths, and unsafe underpass (21%) Unattractive environment (19%)	Reduction of HGVs Build dedicated cycle lanes Improve lighting and underpass Increase the number of pedestrian crossings More pleasant public realm	36 (8%)

A465 Belmont Road	<p>Congestion (52%)</p> <p>Dangerous for cyclists and lack of cycle provision (17%)</p> <p>Difficult for pedestrians to cross (13%)</p> <p>Unpleasant public realm environment and poor road surfaces (13%)</p> <p>Poorly located bus stops (5%)</p>	<p>Bypass / new river crossing</p> <p>Bus Lanes</p> <p>Dedicated, segregated cycle lanes</p> <p>Park and ride facilities</p> <p>Increased pedestrian crossings</p> <p>Improve public realm</p> <p>Tramline</p> <p>Improved traffic signal coordination</p>	36 (8%)
A49	<p>Congestion and heavy traffic and pollution (59%)</p> <p>Difficulty to cross (32%)</p> <p>No cycle lanes / unsafe for cyclists (9%)</p>	<p>Bypass</p> <p>Cycle Lane</p> <p>Improved pedestrian crossings</p> <p>Widen the road</p>	32 (7%)
Rural Villages	<p>Infrequent bus service (times, frequency, services)</p> <p>Heavy traffic flow and HGV volumes on narrow roads</p> <p>Lack of pedestrian infrastructure</p> <p>Poor cycle infrastructure and network into Hereford</p>	<p>Improve bus routes and frequency</p> <p>Bypass</p> <p>Provide pavements and complete missing sections of pavements</p> <p>Build a cycle way / cycle lanes</p>	31 (6%)
A465 Aylestone Hill	<p>Congestion (47%)</p> <p>Dangerous for cyclists</p> <p>Lack of pedestrian crossing places, and short 'green man' crossing times (26%)</p> <p>Dangerous for cyclists (27%)</p>	<p>Adjusting the pedestrian signals for a longer crossing time</p> <p>Cycle Lane</p> <p>Bypass</p> <p>Widen footpaths</p> <p>Traffic calming, including raised</p>	28 (6%)

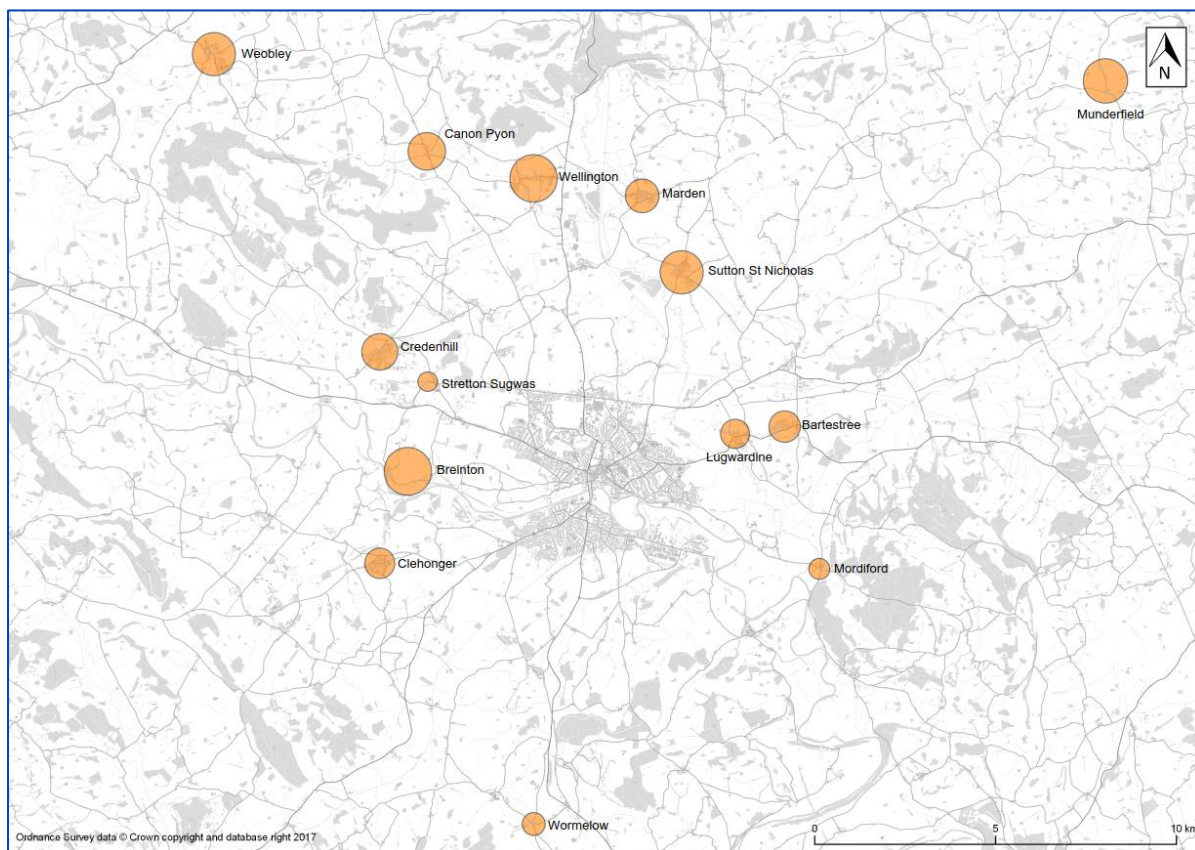
		crossings, mini roundabouts	
Other roads	A4103 (21%) – Speed of traffic, no footpath provision	Speed Cameras Pelican crossing	19 (4%)
	B4224 Eign Road – Poor links to the Greenway	Dedicated cycle lane	
	Barrs Court Road – No provision to cross the road, and being used as a cut through	Close the railway bridge leading to Newton Road	
	Bodenham Road – Traffic volume and speed	20mph limits, safe crossing points	
	Brampton Road – narrow links to Great Western Way	Widen access to Great Western Way	
	Central Avenue – Narrow footpath alongside playground	Widen it to make shared use	
	College Road – Poor pedestrian facilities over the railway bridge	Widen bridge or add a dedicated footway over the bridge	
	Folly Lane – Traffic signals are too long	Replace with a roundabout	
	Holme Lacy Road – no links for pedestrians and cyclists, cycle route has no priorities at junctions, lack of buses going direct to the college	Create an on-road cycle lane Use the railway lines for a cycle route to Rotherwas Open up Broadleys road and Saxon Gate to access Direct bus services	
	Kingsway – illegal parking on double yellows	Enforcement of parking restriction	
	Old School Lane – Poor road surface	Repair and install cycle lane	
Walnut Tree Avenue – speed bumps too high	Install railings and a pedestrian crossing		

	Whittern Way – poor parking	Dedicated parking spaces	
A49/A465 junction	Too congested and high volume of traffic (94%) Dangerous for cycling (6%)	Bypass / new river crossing Improve access to schools by different modes Reduce complexity of junction Cycle lanes / Dutch style roundabout Bus priority / alternative tram route on Great Western Way	16 (3%)
Kings Acre Road	Heavy traffic and congestion (25%) Dangerous for cyclists (25%) No dedicated cycle route (25%) Poor quality pavements (12%) Bus services withdrawn and bus infrastructure (13%)	Bypass Cycle path Reinstate bus services Resurface roads	16 (3%)
Services	Hospital – no cycle/ pedestrian provision	Provide a pedestrian crossing at Stonebow road Cycle Lane	12 (3%)
	School – congestion, dangerous at school pick up/ drop off times	Dedicated drop off points School transport	
	Rail Station – poor connections to other public transport, access congestion	Relocate bus station Dedicated walking and cycling lanes to key areas of Hereford e.g. shops, employment.	
Barton Road	Inadequate cycle provision – causes conflict with pedestrians (36%)	Change traffic signal timings	11 (2%)

	Narrow pavements (27%) Congestion (27%) Underpass isn't very accessible (10%)	Improve footpath New pedestrian crossing at the end of Friar Street and also Victoria Street Improved bus service and school buses Traffic calming	
St Owen Street	No cycle provision (lanes/contraflow) (91%) Parking access (9%)	Contraflow cycle path Two way cycle lane	11 (2%)
Great Western Way	Safety at night - No lighting (45%) Dangerous (33%) Unmaintained (22%)	CCTV Lighting Segregate pedestrians and cyclists Level path Use for a tram route.	9 (2%)
A438 Blueschool Street	Dangerous for cyclists (50%) Traffic (37%) Difficult to cross (13%)	Bypass Bus lanes Cycle lanes More pedestrian friendly	8 (2%)
A438 Ledbury Road	Heavy traffic and congestion (25%) No cycle lanes (38%) Narrow pavements (25%) Parking bays (12)	Cycle lanes Bypass	8 (2%)
Grandstand Road	Vehicle behaviour – speed of traffic and too many HGVs (42%) Bottleneck (29%) No footpath or cycle path (29%)	Cycle lane / route using racecourse Speed restrictions Double yellow line markings Right hand turn lane into Newtown Road	7 (1%)

Old Market	Traffic (29%) Poor lane discipline (29%) No crossings (14%) No cycle lanes (14%) No lay-by for the bus – holds up traffic (14%)	Road closure Pedestrian crossing Cycle lanes Bypass Layby for buses	7 (1%)
Hampton Park Road	Cyclists and vehicles competing for road space (60%) Poor road surface (40%)	Resurface road Reroute HGVs Cycle lanes	5 (1%)
Total number of comments			477 (100%)

Figure 5-5 – Suggested locations for improvements outside of Hereford city



QUESTION 52: ARE THERE ANY OTHER OPTIONS WE NEED TO CONSIDER TO HELP MANAGE HEREFORD'S TRANSPORT PROBLEMS?

- 5.3.31 The final question in the HTP consultation survey asked respondents whether there were any other options that need to be considered in the HTP. 33% (221) chose to respond to this question. The comments have been categorised into the primary recurring themes, queries and concerns have been extracted. This is highlighted in Table 5.5.

Table 5.5 – Other options to help manage Herefords transport problems

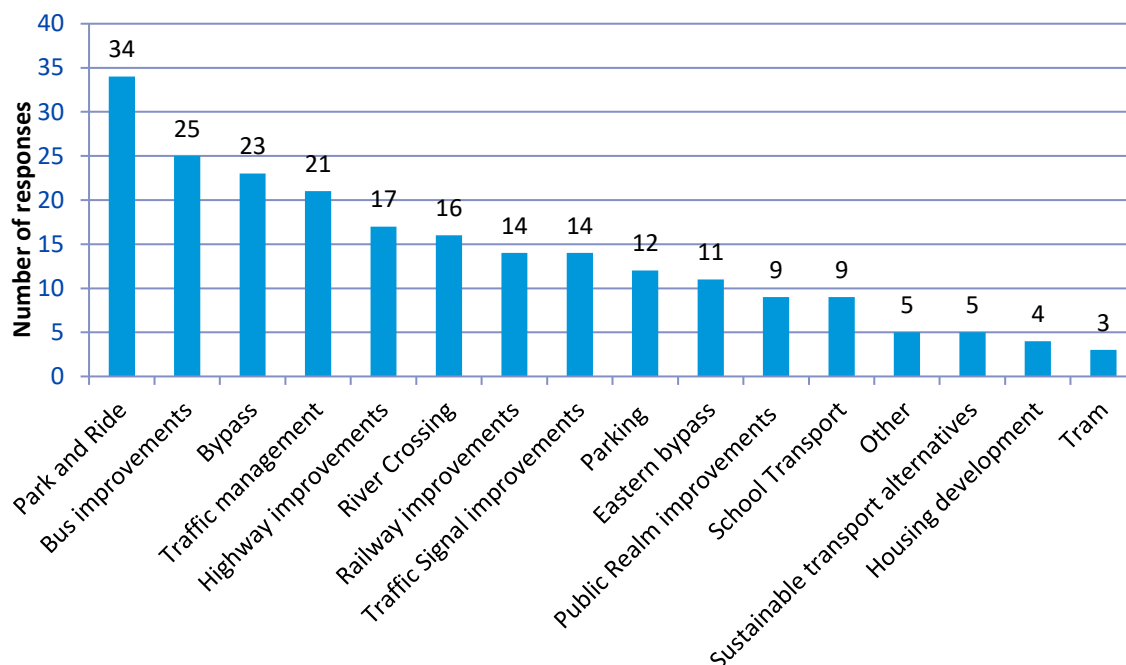
COMMENT THEME	EXAMPLE COMMENTS	NUMBER OF RESPONSES
Park and Ride	<p>“Provide car parking on south of wye with dedicated routes/shuttle to city centre. Provide other car parks further out in larger car parks to avoid trips into city centre and traffic circulatory to find a space.”</p> <p>“Cars are always going to be necessary in Herefordshire, therefore, an excellent city public transport system from north, west, south and east, with dedicated park and ride facilities is essential.”</p> <p>“Park and ride is effective in other similar cities and should be reconsidered”</p>	34
Bus improvements, including cheaper fares, increased services, an increase in electric buses, and an improved bus station in the city centre	<p>“Partnership between council and PT operators to develop an official high quality environmental electric bus network for the city”</p> <p>“Unaffordable public transport is making it hard for those who use cars to get around, to make a viable switch”</p>	25
Bypass	<p>“Build a long awaited bypass”</p> <p>“Hereford is well overdue a proper bypass”</p>	23
Traffic Management, including re-routing, HGV restrictions, addressing pinch points, congestion charge	<p>“A number of key pinch points need to be addressed, without alleviation of these bottlenecks, better traffic flow will not occur”</p> <p>“Congestion charge for those doing short journeys e.g. locals travelling short distances to work.”</p> <p>“Signage needs to be addressed along Holme Lacy Road for HGVs. The 7.5 weight limit signage is no good and needs to be clearer. No HGV access to Rotherwas via Holme Lacy Road”</p>	21
Other Highway improvements, maintenance of existing highway, ring road, better links to HEZ, and rural transport infrastructure.	<p>“Repair potholes quickly and competently so cyclists and drivers don't have to swerve to avoid them and taking their eye off other hazards.”</p> <p>“Build a ring road all the way around Hereford.”</p>	17

Another River Crossing	<p>“We need two more bridges with roads connecting up”</p> <p>“More bridges and a bypass to link south and north businesses and facilities to grow Herefords economy”</p>	16
Railway improvements, including increase in services for both freight and passengers, and a new station	<p>“You need to improve rail lines and open up more stations away from the centre of Hereford so people can use it as a means to travel to work. You also need to increase the number of trains”</p> <p>“Opening railway link from Hereford to Ross”</p>	14
Traffic signal improvements, changing phasing of traffic lights.	<p>“Improve phasing of traffic lights and where possible remove them or switch them off outside of peak hours.”</p> <p>“All traffic lights to be sensor activated rather than timed as at present”</p> <p>“Synchronise pedestrian crossing lights with main traffic lights at major junctions”</p>	14
Parking, including cheaper parking charges and more parking in the city centre	<p>“If you want more people to use the city centre, stop/reduce the very expensive parking charges for 2h duration”</p> <p>“More structure to parking fees. Too many options in all car parks. Inners ones should be short stay at a premium outer ones should be long stay and cheaper.”</p>	12
Eastern Bypass	<p>“Put bypass on the East side to connect businesses in Rotherwas with motorways and take out of Hereford the business traffic/lorries”</p> <p>“Commercial and tourist traffic approaching from the Midlands, the North and East should not have to circumnavigate the city to use a bypass. Only an Eastern route makes sense.”</p>	11
Public realm improvements, shared space, 20mph restrictions	<p>“Reducing parking provision for new builds particularly towards the city centre. Rebalance street use towards cycles, pedestrians, wheel chair users etc.”</p> <p>“Shared space design and 20mph throughout”</p>	9

School transport, dedicated school buses	<p>“Reinstate rural bus routes for commuting times & heavily subsidised school buses”</p> <p>“More school buses as congestion is much greater during school term”</p>	9
Other, flexible working, health and wellbeing, maintaining the cultural heritage	<p>“Consider the cultural heritage of the Wye Valley to the West of the city.”</p> <p>“People's health. The more development of roads, shopping centres and supermarkets means that the population is becoming car-reliant. Hereford has an obesity problem which is shocking considering it has so much access to the countryside.”</p>	5
Other transport alternatives, carpooling, electric taxis and river taxis/ ferries, bike hire, sustainable travel plan,	<p>“Incentives for car sharing schemes such as discounted car park fees.”</p> <p>“Incentives and infrastructure for electric cars and all vehicles.”</p>	5
Housing developments, restricting large scale developments, urban density with close access to services	<p>“Urban density. Housing within walking distance of services and jobs will lead to more people walking.”</p> <p>“We consider that new development opportunities could assist in the delivery of the bypass. Without sufficient access onto the bypass from the west future traffic demand will be forced onto small outer routes causing further congestion. Lack of appropriate access junctions onto the bypass could create severance issues.”</p>	4
Introduction of a tram	<p>“Build monorail or use trams across Great Western Way and onwards”</p> <p>“A tram on a loop going in both directions around the city would be much more efficient than buses competing with cars for space on congested roads”</p>	3

- 5.3.32 Figure 5-5 shows the highest regarded options to help manage Hereford's transport problems. When asked, the most popular response was a Park and Ride, followed by bus improvements. Managing housing developments were not considered to help manage Hereford's transport problems

Figure 5-5 – Other options to be considered in the HTP



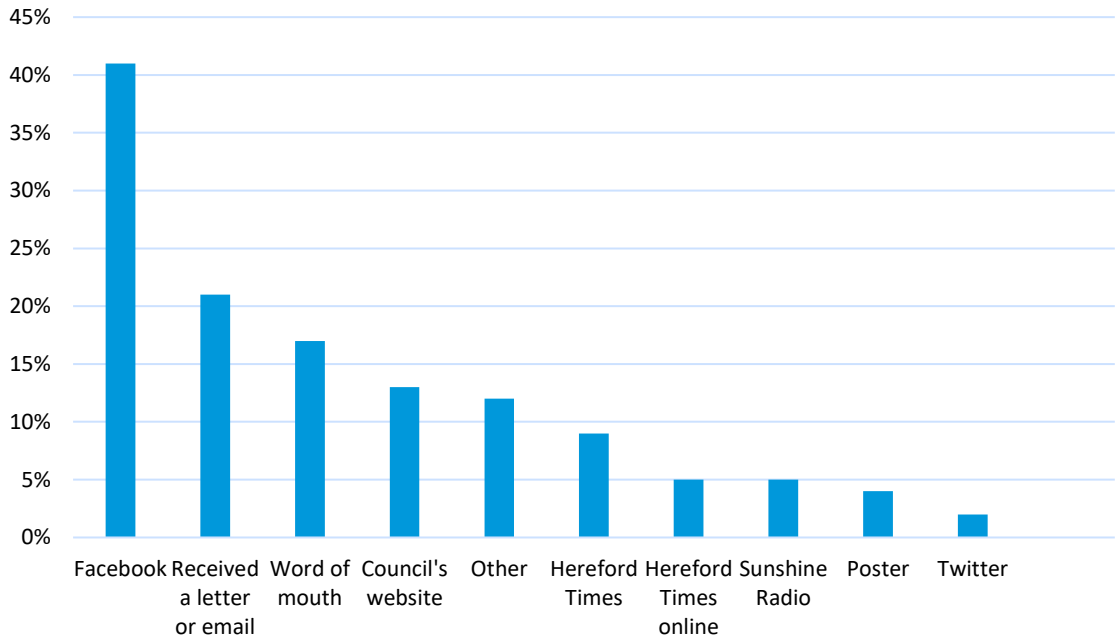
5.4 CONSULTATION PROCESS

- 5.4.1 Respondents were asked four questions about the consultation process. A summary of the findings are as follows:

QUESTION 54: HOW DID YOU HEAR ABOUT THE CONSULTATION?

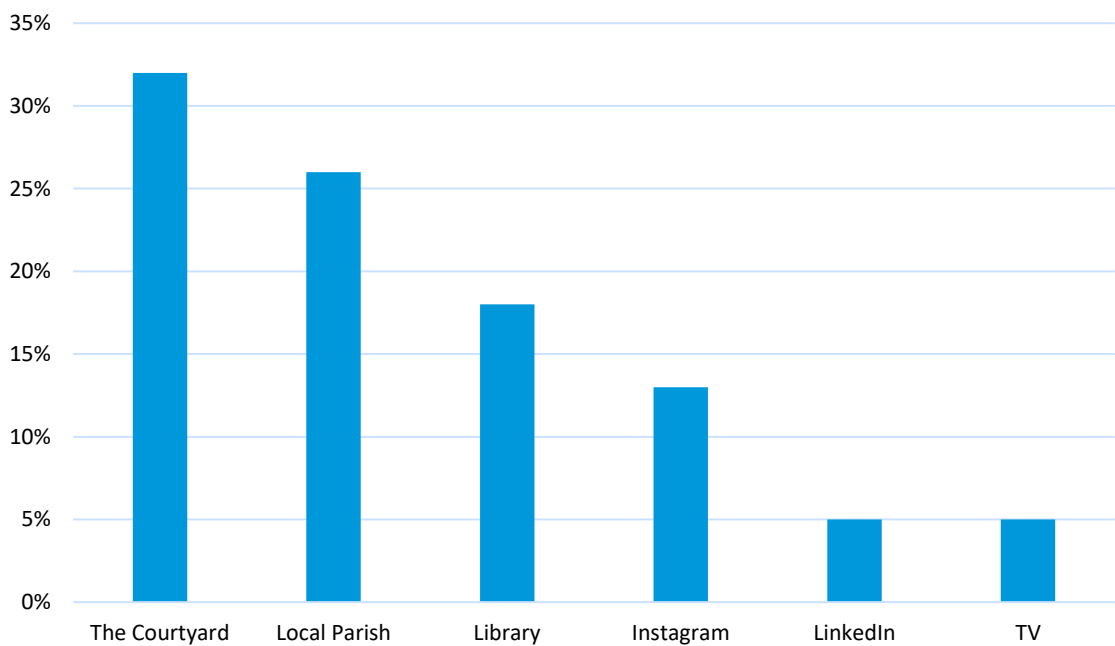
- 5.4.2 Figure 5-6 highlights how people heard about the HTP consultation. 41% of people heard about the consultation through Facebook. 21% of respondents received a letter or email from the Council. The least amount of respondents (2%) heard about the consultation through Twitter.

Figure 5-6 - Consultation advertising



The 12% that responded 'Other' heard about the consultation through The Courtyard itself, their local Parish Council, the Library, Instagram, LinkedIn or on the central news on the television. This is represented below in Figure 5-7.

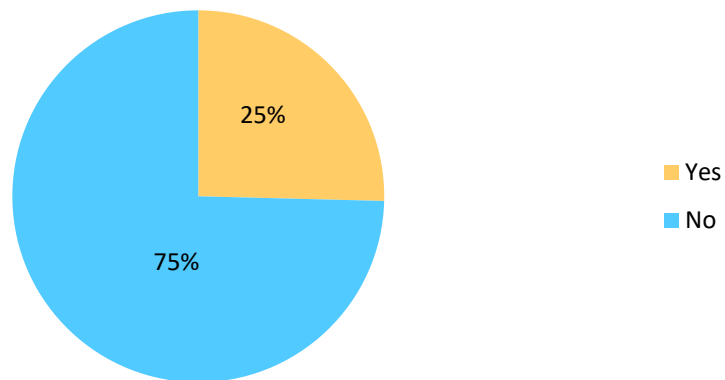
Figure 5-7 - 'Other' category when respondents were asked how they heard about the exhibition



QUESTION 55: DID YOU ATTEND A PUBLIC EXHIBITION?

- 5.4.3 A quarter of (25%) of respondents that replied to the consultation questionnaire attended the public exhibition, as seen by Figure 5-8.

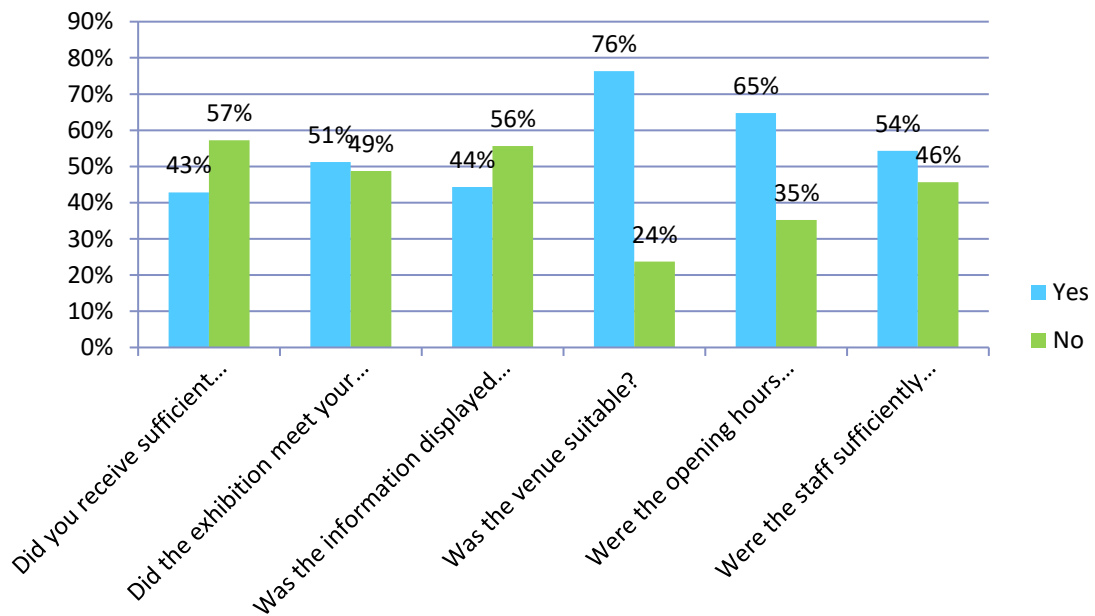
Figure 5-8 - Consultation Attendance



QUESTION 56:

- 5.4.4 Question 56 asked those respondents that attended the exhibition about the experience they had at the public exhibition. The six questions were just a 'yes' or 'no' response and responses are seen below in Figure 5-9.

Figure 5-9- Public exhibition feedback

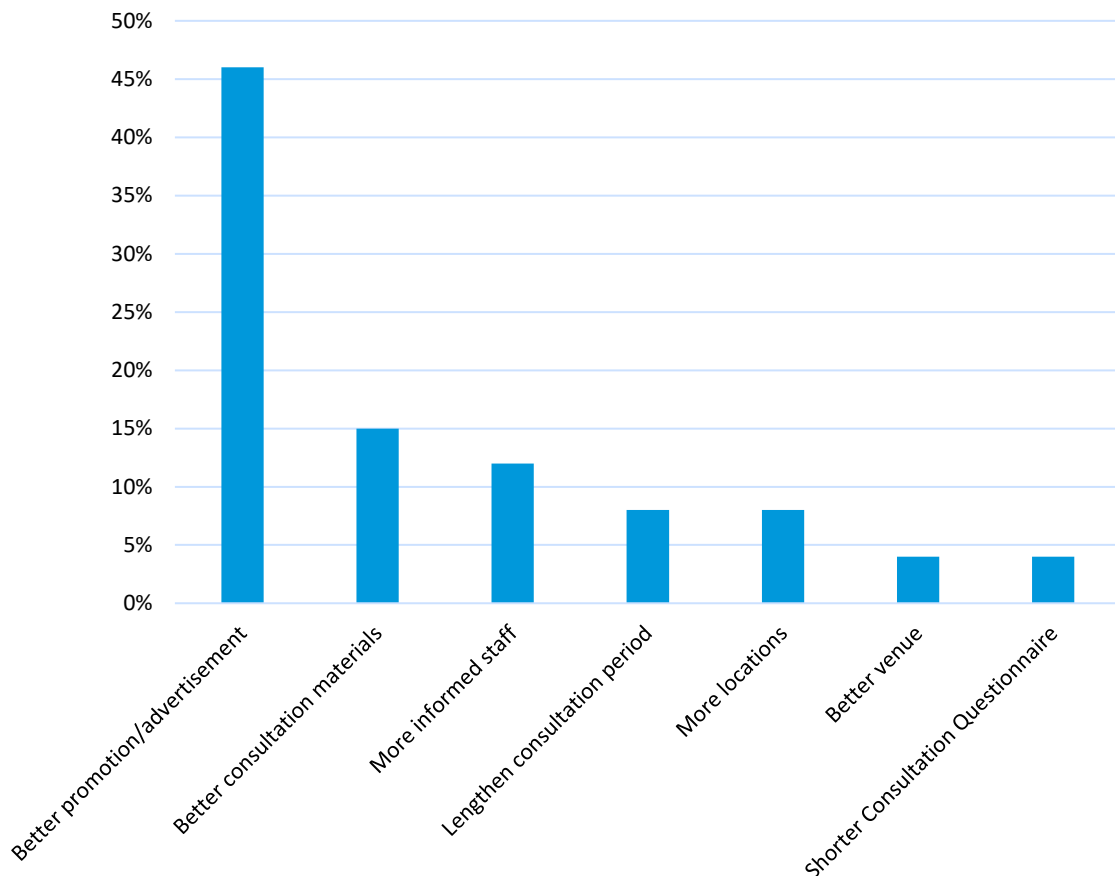


- 5.4.5 Overall response to the public exhibition was positive, with 54% of respondents giving positive feedback. The majority of respondents found the venue suitable (76%), the opening hours sufficiently long enough (65%) and staff sufficiently informed (54%).
- 5.4.6 However, the majority of respondents felt that they did not receive sufficient notification about the public exhibition (57%) and did not find the information displayed sufficient enough to answer any questions they had (56%).

QUESTION 57: DO YOU HAVE ANY SUGGESTIONS ABOUT HOW WE MIGHT IMPROVE FUTURE EXHIBITIONS?

5.4.7 Respondents were asked how HC could improve future exhibitions, of which 64% responded with comments. The responses have been categorised into common themes and reported below in Figure 5-10.

Figure 5-10 - How to improve future exhibitions



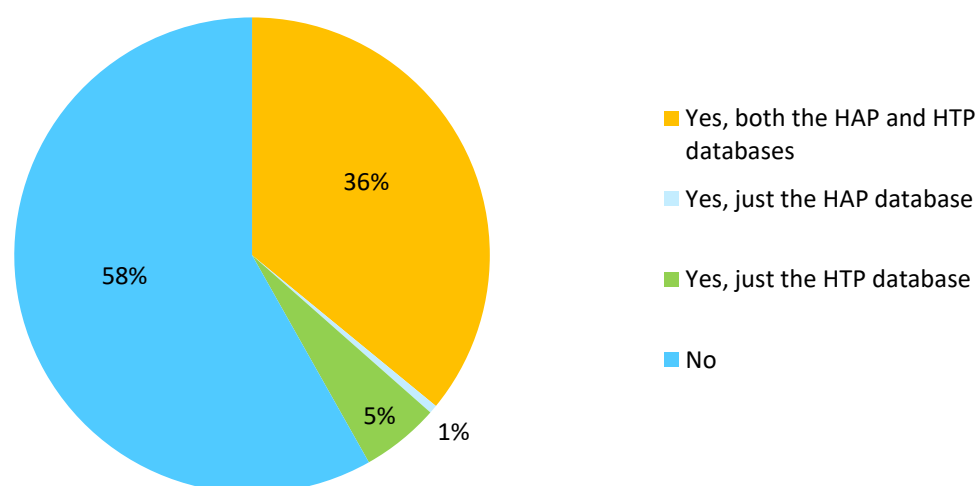
Of those that responded, 40% would like better communication of the consultation event, through flyers, letters, and radio publication, 13% wanted improved consultation materials. 10% didn't feel that staff were properly trained/informed and 7% wanted the consultation period to be longer and have staffed exhibitions open earlier/later. 10% would like to see the consultation at more public venues, and a more appropriate venue than the Courtyard. The 3% that responded with 'Other' raised the following comments:

- Ensure feedback is properly recorded and taken into account
- Have less staff and save money
- Have politicians present at consultation.

QUESTION 53: WOULD YOU LIKE TO BE ADDED TO THE HAP AND/OR HTP CONTACT DATABASES TO BE KEPT UP TO DATE ABOUT THE PROJECT AS IT PROGRESSES?

- 5.4.8 84% of respondents chose to answer question 53 about whether they would like to be kept updated on the HAP and HTP. Figure 5-11 highlights the majority (58%) did not want to be kept updated on the HAP or the HTP. 36% respond with wanted to be added to both the HAP and HTP databases. Only 5% wanted to be kept updated on the HTP alone.

Figure 5-11 - HAP/HTP databases

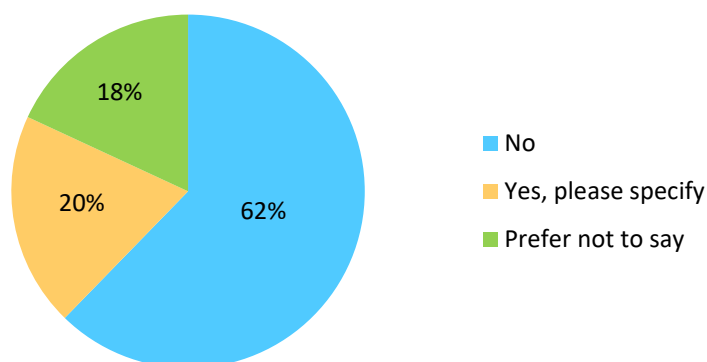


5.5 PERSONAL AND DEMOGRAPHIC QUESTIONS

- 5.5.1 As part of the consultation survey, respondents were asked a series of personal and demographic questions.

QUESTION 58: ARE YOU A MEMBER OF A LOCAL BUSINESS OR ORGANISATION?

- 5.5.2 78% of respondents answered question 58 on whether they were a member of a local business or organisation. Figure 5-12 highlights one in five of all participants (20%) were representatives of a local business or organisation.

Figure 5-12 - Part of a local business or organisation?

5.5.3 **Questions 59 to 61** of the survey collected demographic information about survey participants to help HC spot trends and identify groups that require further engagement. The survey explained that this information would be kept separately and anonymised. The findings of the demographic questions are summarised in Table 5.6.

Table 5.6 - Demographic responses of respondents

CATEGORY	RESPONSE	COMPARISON WITH 2011 CENSUS
Gender	<p>Most respondents were male:</p> <p>54% were male</p> <p>41% female</p> <p>4% preferred not to say</p> <p>Less than 1% of respondents identified as transgender.</p>	<p>There was a slight underrepresentation of females – females make up 50% of the Herefordshire population.</p>
Age	<p>There was a good spread of participation from people between 16 years and 74 years:</p> <p><1% were under 16</p> <p>22% were 16 to 34 years</p> <p>43% were 35 to 54 years</p> <p>29% were 55 to 74 years</p> <p>1% were 75 years or older</p> <p>4% preferred not to say</p>	<p>There was underrepresentation of the following age groups compared to the Herefordshire population:</p> <p>People under 16 - this group make up 19% of the Herefordshire population. Note that this group were targeted by the Herefordshire & Ludlow College event held on Tuesday 23 May 2017.</p> <p>The following age groups were well-represented:</p> <p>16 years to 34 years – this group make up 19% of the Herefordshire population.</p>

		<p>35 years to 54 years – this group make up 19% of the Herefordshire population.</p> <p>55 years to 74 years – this group make up 33% of the Herefordshire population.</p> <p>Over 75 - this group make up 10% of the Herefordshire population.</p>
Disability	<p>Most respondents (87%) did not consider themselves to have a disability:</p> <p>6% of participants considered themselves to have a disability, and 7% preferred not to say.</p>	<p>The consultation was relatively representative of people that consider themselves to have a disability - 8.4% of the Herefordshire population have a long-term health problem or disability that limits their activity a lot.</p>

5.6 COMMUNITY VIEWS

5.6.1 To assist with the identification of issues and concerns the project team took notes of some of the more detailed discussions they had with attendees at the public exhibitions, and wrote down specific questions or concerns.

5.6.2 The comments raised covered a wide range of topics relating to the HTP. The issues that came up repeatedly are summarised in this section.

5.6.3 The public identified the following transport problems:

- Major congestion issues across Hereford.
- Problems with congestion on Holme Lacy Road - roundabout at ASDA is a big issue.
- Need to solve the traffic congestion issues before you look at improving walking and cycling.
- Concern at expenditure on major projects given poor condition of existing infrastructure. For example road maintenance and potholes throughout County.
- More school students to use bus services to reduce congestion.
- Limited routes to motorway.

Table 5.7 - Comments raised about the bypass during the public exhibition

Support for the bypass	<ul style="list-style-type: none"> • Bypass great idea • Supports having a bypass for Hereford • Landowner who lives at King's Acre was originally consulted on the bypass in 1987 and has faced uncertainty for the past 30 years. The landowner is supportive of the need for the bypass – he doesn't want to end up right next to the road but understands the need. He would like a decision to be made ASAP • Very supportive of the bypass which needs to be built soon to cater for new housing • Create viewing points along the new route • Supports bypass – would be nice to have • Supportive of the bypass even though it goes through his land which spans the corridor – get on and build it – avoids using the A49
Opposition to the bypass corridor location	<ul style="list-style-type: none"> • A western bypass through Breinton/Warham will damage an environmentally sensitive area popular with walkers, runners and cyclists. I don't believe it will solve any of Hereford's traffic problems in part because the new housing proposed will generate a large amount of extra traffic • Does not relieve transport problems on the east side of Hereford • Mordiford Parish Council wants a bypass on the east side of Hereford • Does think congestion is an issue but would prefer an eastern bypass over bypass located next to land • Rather than a bypass so close to the city and going through beautiful important landscape at Breinton, it's better to have the road further away from town and put New Town somewhere else
Opposed to the principle of the bypass	<p>Doesn't believe it is a bypass but purely a road to support housing delivery – believes journeys are only going into the centre and are not going through.</p>
Issues for consideration when developing possible bypass routes	<ul style="list-style-type: none"> • Field to west of Fayre Oaks – border of bypass corridor is prone to flooding and has new reservoir catchment to alleviate flooding on Fayre Oaks and Huntsman's Drive • Wants to make sure the road developer includes future proofing for future housing development e.g. internet cabling etc. so odd work is not required in future years • Provision made for cyclists/runners/NMUs along bypass • Need for Parish Plan with corridor • Concerns the parish neighbourhood plan doesn't include bypass corridor • Consider increasing the height of the new bridge to avoid the environmental issues, like the SSSI • Need to do bat surveys - Noted that bat surveys have already happened

5.6.4 The public also identified walking, cycling, bus and public space improvements as concerns and suggestions for the HTP:

WALKING IMPROVEMENTS:

- Walking from Whitecross Road to the town centre is very difficult, especially when both underpasses are flooded. There is no equivalent cycle route
- Walking from Whitecross Road to St Martin's Road is made difficult by the fact that there is no crossing in Barton Road to the underpass
- Need to resolve conflict between pedestrians and cyclist particularly on Whitecross Road – Plough Lane to Aldi. Need better definition between areas for each use

CYCLING IMPROVEMENTS:

- All new roads should have cycle paths integrated
- Improved cycle infrastructure
- Need to resolve conflict between pedestrians and cyclist particularly on Whitecross Road – Plough Lane to Aldi. Need better definition between areas for each use
- Current bike lanes are too narrow
- Improvements in surrounding routes for lighting e.g. Roman Road west of A4110
- Better linking throughout western side and centre/Rotherwas for NMUs
- NMU crossing points on foot and cycle bridges, rather than just at grade crossings (particularly B4349 and cycle path near Three Elms for cyclists)

BUS IMPROVEMENTS:

- More bus services to Leominster, Ross-on-Wye and within Hereford generally. Difficult to get around without a car
- A bus lane which leads to the hospital
- Bus priority
- Need direct bus links from new housing to new employment
- There are no cross-town transport links

OTHER IMPROVEMENTS:

- Park & Ride would be good at Three Elms

5.7 WRITTEN SUBMISSIONS

5.7.1 During the consultation period, 11 stakeholder organisations provided feedback on the HTP by emailing or writing to HC.

5.7.2 A table summarising all of the written submissions can be seen in **Appendix G**. The key themes from the responses of the 11 HTP submissions are:

DELIVERY OF HOUSING

5.7.3 The stakeholders would like to see HC adhere to timescales stated in the Core Strategy and Local Plan, as this will enhance the delivery of housing in the key strategic sites.

ENVIRONMENTAL CONCERNS

5.7.4 The bypass has the potential to be environmentally costly, and so the design needs to be carefully planned to minimise and mitigate the effects of the bypass, but is also an opportunity to seek improvements in line with the National Planning Policy Framework. Consideration of the landscape should be given a high level of importance when determining the preferred route.

ECONOMIC BENEFIT

5.7.5 Powys Council and Hereford Market support the provision of the bypass and its greater connectivity to the two sides of the River Wye, and welcome the wider economic benefits and opportunities it would bring.

SUSTAINABLE TRANSPORT

5.7.6 Sustainable transport should be fully supported as a result of the bypass, but initiatives shouldn't need to wait for the bypass to be built, and could be implemented now.

EARLY ENGAGEMENT

5.7.7 The stakeholders that responded would like to be fully engaged at the early stages to ensure the bypass route does not adversely affect the natural or historic environment, or stakeholder assets.

5.8 PETITIONS

5.8.1 A total of 35 individual responses from the public were received, opposing the western bypass. 30 of these responses were based on the templates provided on the Breinton Parish website. In total, 24 of the 35 responses were from residents of Breinton, objecting to the proposed western relief road potentially being built through or close to Breinton. Some letters of objection did not provide an address, but used the Breinton parish templates.

5.8.2 Table 5.8 below highlights a summary of each template, as well as the key issues raised in the comments.

Table 5.8 - Petitions about the HTP

THEME	SUMMARY OF TEMPLATE	NUMBER RECEIVED	HANDWRITTEN COMMENTS (KEY ISSUES)
Freight	<p>The council has failed to provide details of a Freight Strategy, a Waste and Minerals Plan and has made no mention in the HTP regarding freight and rail.</p> <p>The response also states that freight crossing Greyfriars Bridge has declined based on DfT AADT figures.</p> <p>There is confusion as to why HC want to promote a bypass when they have insufficient money to maintain the current roads. Building a new road will attract more HGVs and contribute to roads deteriorating faster.</p>	6	<p>Don't believe the bypass would solve any of the traffic problems with new developments and extra cars.</p>
Environment	<p>The proposed bypass will destroy open countryside and high grade arable farm land, intruding on the historic landscapes between Belmont and Breinton. Herefordshire's principal asset is its unspoilt countryside and once lost, it is gone forever.</p> <p>A river crossing at Wareham would destroy the historic landscapes painted by the Herefordshire artist Brian Hatton and the setting of the Breinton Springs monument.</p> <p>Breinton was identified as the 'Green Lung' of Hereford by the Victorians. The bypass will bring pollution (air, light, noise).</p> <p>A western bypass will pose a risk to important geological Water Protection Zone.</p>	15	<p>The public enquiry for the bypass to the east did not take into account the Lugg meadows were in agricultural use in WWII and their ecological importance is substantially less important than imagined.</p> <p>Why not use the existing bridge at Bridge Sollars and improve links, rather than destroying scenic areas.</p> <p>Hereford residents enjoy the nearest good quality countryside in Breinton, especially walkers.</p>

Sustainable transport	<p>The bypass will fail to solve congestion in the city as only 17% is through traffic. The HTP gives no information about what can be done to reduce congestion in Hereford by sustainable measures.</p> <p>Destination Hereford resulted in a modal shift away from cars to more sustainable methods of transport. The DFT Nov 2014 report concluded benefits from walking and cycling were higher than benefits from building new roads. Higher levels of walking and cycling are shown to support local economies, reduce crime and improve health and wellbeing.</p> <p>The HTP is an opportunity to provide a comprehensive sustainable travel network and improve travel choice for everyone.</p>	2	<p>Bypass should be located to the East to facilitate links to the other English conurbations.</p> <p>The predicted cost of the bypass should be better spent on sustainable transport measures.</p>
Economy	<p>What evidence is there to support that £132million spent on a bypass to the West of Hereford will improve transport choice and reduce short car journeys? The bypass will not connect new homes and services in Hereford.</p> <p>CPRE March 2017 have demonstrated that road building schemes never deliver the net economic benefits they promise, and underestimate the economic value of the environment and landscape.</p> <p>The council does not appear to be following the people's choice as a result of the Local Transport Plan consultation in 2015. The most favoured option from this consultation was to improve the access to services for those living in rural areas by delivering a range of transport options, particularly those without a car. The least favoured option was building new roads.</p>	5	<p>The cost is excessive, mainly due to inaccessibility of the chosen crossing point. Why chose expensive solutions when cheaper alternatives are available?</p> <p>The bypass will result in a loss of grade 1 agricultural land that is used for recreational purposes.</p> <p>The railway station, colleges and hospital are all the east of the city, and a western bypass will not benefit these establishments.</p> <p>Eastern bypass is the less costly option.</p>

5.8.3 The other five petitions were individual response petitioning against the bypass and did not use text provided from the Breinton website. A summary of key points raised in these submissions are as follows:

- Breinton and the Lugg Meadows is a beautiful area of countryside that will be blighted if a bypass is built through it. Other open spaces should also be protected.
- Traffic problems won't be eased as the bypass is coupled with new, large housing developments.
- The bypass should be built to the east to benefit the main economies on the east side of Hereford. The Eastern route should be preferred as it is a cheaper alternative.
- A new road will contribute to society's poor health as sustainable travel options are not encouraged enough for shorter journeys.
- The cost of the bypass has not been properly estimated and will cost more than originally budgeted for.
- The majority of trips in Hereford are short distance trips. Sustainable travel alternatives for these trips will not be a preferred option if a new road is built. This will affect people's health in the long-term.
- Separate walking, cycling and public transport strategies should be written and to promote and encourage sustainable transport to reduce car trips.
- Provide technologies, such as high speed broadband, to allow people to work from home and reduce the need for travelling.
- Preserve the landscape that local artist Brian Hatton painted. Breinton was his home, and the cultural legacy and artistic heritage should be left un-spoiled.

6 CONCLUSIONS

6.1 EFFECTIVENESS OF CONSULTATION

- 6.1.1 The consultation reached a wide range of landowners, business, residents and community members. The consultation reached thousands of people – 40,907 visits came from Facebook and 9,335 came from Twitter. This wide-spread promotion resulted in 2,781 unique web page visits, 439 participants in face to face consultation events and 671 HTP consultation survey responses.
- 6.1.2 Facebook advertising and the personal distribution of letters/emails were the most effective methods used to promote the consultation. The website, word of mouth, and advertisements at the consultation venue (The Courtyard) were also commonly referenced methods people heard about the consultation.
- 6.1.3 The scope of distribution of material, the diverse range of promotions, and the range of opportunities for participation and variety of formats of information ensured the process was accessible. Despite this, When comparing the demographic findings of the survey to the 2011 census, the survey results show an under-representation of young people (under 16 year olds), older people (over 75 years). People aged between 16 and 54 and people with disabilities were comparably well represented.
- 6.1.4 The consultation achieved its objectives to raise awareness of the proposals, planning and design process, and to invite feedback about the proposals. The process respected the relevant consultation requirements and principles for the initial non-statutory phase of consultation.

6.2 SUMMARY OF RESULTS

- 6.2.1 Feedback received during the consultation demonstrates that overall there is broad agreement amongst respondents that traffic conditions in Hereford need to be improved, with congestion being one of the biggest problems resulting in long delays at signal junctions.
- 6.2.2 There was broad support for the principle of a bypass to solve some of these transport problems; however some participants object to the location of the route corridor, despite the corridor being presented in HC's adopted Core Strategy. Residents of Breinton are firmly opposed to a western bypass (as demonstrated by the 35 form submissions received) and others that also oppose the proposed western bypass would prefer it to be located in the east, close to the HEZ and other major transport links, such as the motorways. The consultation material was clear in explaining that a decision had been made about the western corridor.
- 6.2.3 Survey respondents felt that the most important factors for HC to consider when identifying possible bypass routes were:

- The likelihood of the route to reduce traffic in Hereford, and reduce congestion;
- The impact on the landscape, such as Historic Buildings;
- The impact on homes; and
- The potential for improved facilities for walkers, cyclists and bus users.

6.2.4 Whilst some stakeholders expressed concerns about the possible environmental impact of the bypass, several recognised the economic benefits (for employers and employees), opportunity to provide a much needed link to housing and benefits in terms of sustainable travel.

6.2.5 Poor bus routes and lack of walking/cycling infrastructure were common themes in respondent's answers to the HTP questions in the consultation survey. Improving public transport and walking and cycling infrastructure were seen as solutions to some of the transport problems in Hereford, as well as a Park and Ride facility. It was, however, suggested that, even with walking and cycling infrastructure improvements, a number of barriers to more sustainable modes need to be addressed including: perceived safety, the cost and regularity of buses and the inconvenience of existing infrastructure and facilities.

6.2.6 The town centre was a key location where respondents would like to see walking, cycling, bus and public space improvements. Several locations were also made for possible improvements outside of the city centre.

6.3 TAKING THE CONSULTATION FINDINGS FORWARD

6.3.1 A lessons learnt workshop was also carried out following the completion of the consultation to evaluate the phase 1 consultation approach, and identified possible opportunities and risks for future stages of consultation.

6.3.2 The consultation findings will be used alongside technical design and appraisal work to inform to produce several possible bypass routes, as well as walking, cycling, bus and public space improvements. These will then form part of the second phase of consultation with the public in late 2017.

6.3.3 Following this second phase of consultation and approval by HC, the preferred bypass route will be developed through further design, consultation and appraisal in support of a full business case to secure funding.

Appendix A

POSTER AND FLYERS DISPLAYED IN BUSINESSES

Herefordshire's Economic Vision

Shaping Hereford's Future - Get Involved

Jobs | Homes | Leisure | Tourism | Bypass | University

The Hereford Area Plan and Hereford Transport Package Consultation Exhibition

Have your say on Hereford's future



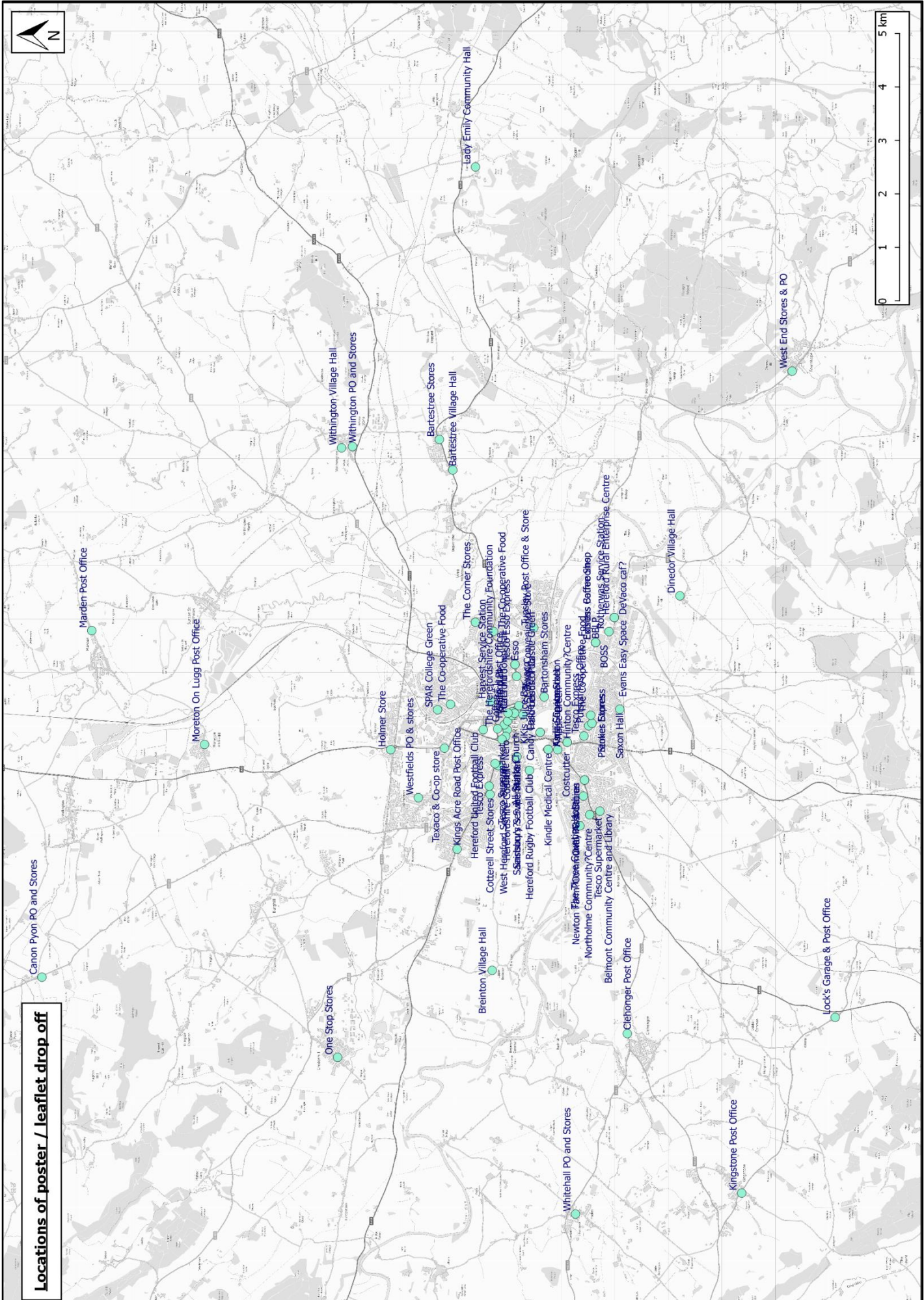
**Public Exhibitions at The Courtyard, Hereford
April 4, 5, 6 - 11am-7pm or go on-line
Herefordshire.gov.uk/HerefordConsultation**

The exhibition will be available to view from Tuesday 11 April 2017 - Friday 19 May 2017 (during normal opening hours) in the lobby at Hereford Library. The exhibition will be manned every Wednesday from 2pm-4pm until the consultation ends.

For more information contact the team on 01432 261800

Appendix B

LOCATION OF DISTRIBUTED POSTERS AND FLYERS



Appendix C

PRESS RELEASE

News release

PR 053/17

15 April 2017

Don't forget to have your say

Herefordshire Council is urging residents to take part in one of the biggest consultations on Hereford City's future development delivered to date.

The Hereford Consultation has been running since April 4 and will finish on May 22, and covers topics like the Hereford Bypass, new university, tourism and leisure and housing.

Councillor Philip Price, cabinet member infrastructure said:

"I have been encouraged by the number of people attending the exhibitions and taking part in the online questionnaire; we now have over 1000 responses and this number is growing by the day.

But, we do need to get the views of as many people as possible and I urge anyone who hasn't taken part, or who has had a survey but hasn't filled it in yet to take a few minutes out of their day to let us know what they think.

The Council is committed to taking forward the Hereford Transport Package including the western bypass and want to know people's views. We want to know about any issues or constraints associated with the western bypass corridor before we consult on a number of bypass routes later on this year.

The subjects covered in the consultation affect everyone living, working and visiting Hereford City and I would like to see as many people's opinions considered when we make plans for the future."

The consultation exhibition can be viewed at Hereford Library during normal opening hours and is staffed on a Wednesday afternoon from 2-4pm up until Monday 22 May.

The exhibition panels, information and a link to the consultation questionnaire can be found at www.herefordshire.gov.uk/herfordconsultation

Ends

Michelle Morgan (communications officer) 01432 383404

 : <http://www.facebook.com/hfscouncil>
 : <http://twitter.com/HfscCouncil>
 : <http://www.flickr.com/photos/hfscouncil/>

[Don't forget to sign up for council news and email alerts](#)

Appendix D

HTP EXHIBITION PANELS

Welcome to the public consultation exhibition for the Hereford Transport Package.

This is a key project as set out in the Local Transport Plan.

What is the Hereford Transport Package (HTP)?

The Hereford Transport Package includes the Hereford Bypass and a package of other measures as set out below:

A Hereford bypass

A new road to the west of the city. The exact route has not been determined but would include a new river crossing.

The bypass would support the delivery of 6,500 homes and 6,000 jobs, a new university and expansion of the Hereford Enterprise Zone at Rotherwas.

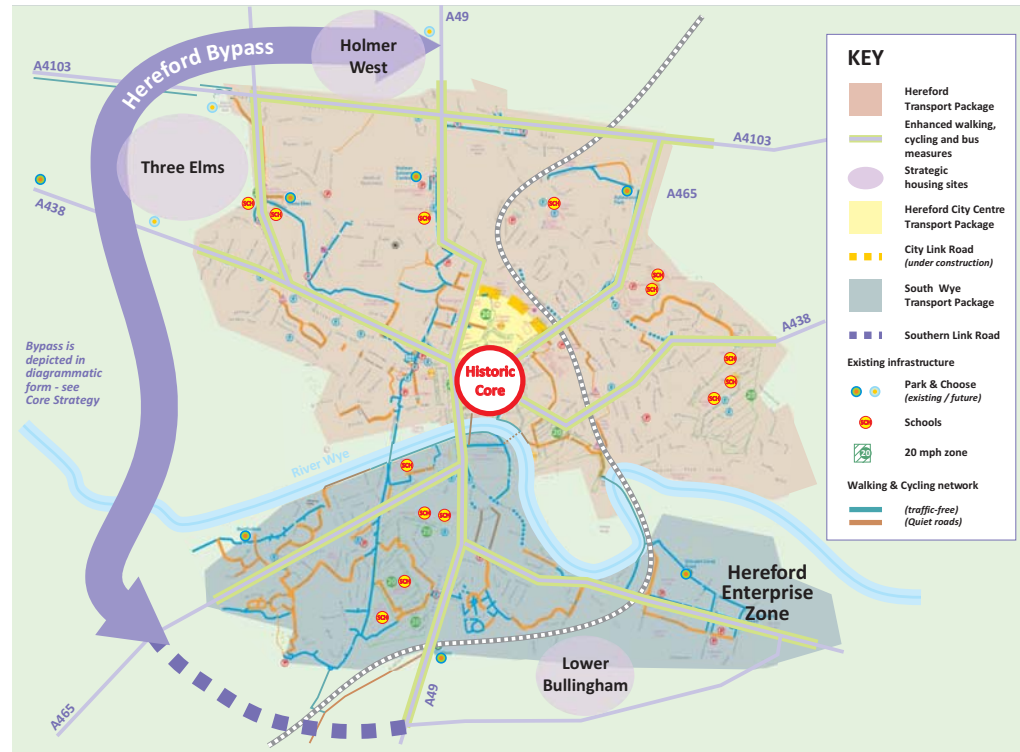
Walking, cycling and bus improvements

Improvements in Hereford to increase walking, cycling and bus use for short distance journeys.

More attractive and healthier public spaces.

The HTP will help us deliver transport conditions to support a healthy and prosperous city by:

- Enabling new jobs and homes
- Supporting the economy of the city centre
- Promoting healthy lifestyles
- Reducing pollution



Why are we consulting? To help us design the HTP, we would like your thoughts on:

The current transport problems in Hereford

What we should do to solve these problems, particularly:

- The types of walking, cycling, bus and public space improvements you'd like to see and where you think these are needed.
- The issues we need to consider when identifying possible bypass routes to the west of the city. This will include homes, businesses, buildings and wildlife habitats.

There are a number of reasons why we need the Hereford Transport Package.

Delays for long-distance journeys

- Heavy congestion and unreliable journey times arising from low speeds
- A single river crossing struggling to cope with current traffic levels
- Extensive queuing on the network
- High numbers of short distance car journeys
- Large numbers of heavy goods vehicles using the key roads

Barriers to growth

- Difficulty in attracting new businesses and jobs
- Difficulty in retaining existing businesses
- Unable to build new homes
- Discouraging young people leaving the area

Poor local and regional connections

- Long distance freight travelling through the city
- Limitation to growth of Hereford Enterprise Zone at Rotherwas
- Poor connections to Wales and the Midlands
- Economic impact of unreliable journey times

Health and the environment

- Poor air quality and emissions due to high levels of congestion and heavy goods vehicles
- Barriers to safe walking, cycling and bus use
- Traffic noise and vibration from heavy goods vehicles
- Busy roads are difficult to cross
- Damage to our historic environment
- Increasing levels of obesity due to unhealthy travel habits such as short distance car use

Safety

- Accidents and breakdowns
- Busy roads are difficult to cross
- Traffic and congestion is intimidating to walkers and cyclists



The HTP will enable:

- Congestion to be reduced and journey times to be improved
- Improvements in local and regional connections
- Improvements in health and the environment
- Improvements in safety and reductions in operational costs
- Local growth



Reducing congestion and improving journey times by:

- Providing an additional river crossing
- Reducing congestion on the A49 and other key roads in the city
- Encouraging walking, cycling and bus use for shorter journeys

Improving local and regional connections by:

- Allowing traffic to bypass Hereford and improve connections to Wales and the Midlands – particularly for heavy goods vehicles
- Improving access to the Hereford Enterprise Zone at Rotherwas
- Bringing wider economic benefits for businesses and employment through better and more reliable journey times



Improving health and the environment by:

- Improving walking, cycling, bus and public space infrastructure
- Improving air quality and emissions in the city by reducing congestion and the number of heavy goods vehicles
- Encouraging more walking, cycling and bus use, improving health and reducing impact on the environment

Improving safety and reducing operational costs by:

- Improvements to road safety on the city network
- Reducing maintenance costs of the A49
- Decreasing operational costs to businesses due to improved journey times and efficiency

Enabling local growth by:

- Helping deliver 6,500 new homes and 6,000 new jobs in Hereford
- Allowing the expansion of the Hereford Enterprise Zone at Rotherwas

A new road to the west of the city including a new river crossing.

What have we done so far?

We have undertaken a number of studies which identified the *Core Strategy* bypass corridor. We are progressing the appraisal of route options within this corridor.

We have carried out investigations of a number of issues and identified constraints within the corridor to help establish possible bypass routes including:

- Mapping existing homes and businesses
- Undertaking initial engineering studies
- Surveying traffic, bus, rail, pedestrian and cycle movements
- Carrying out household and school travel surveys

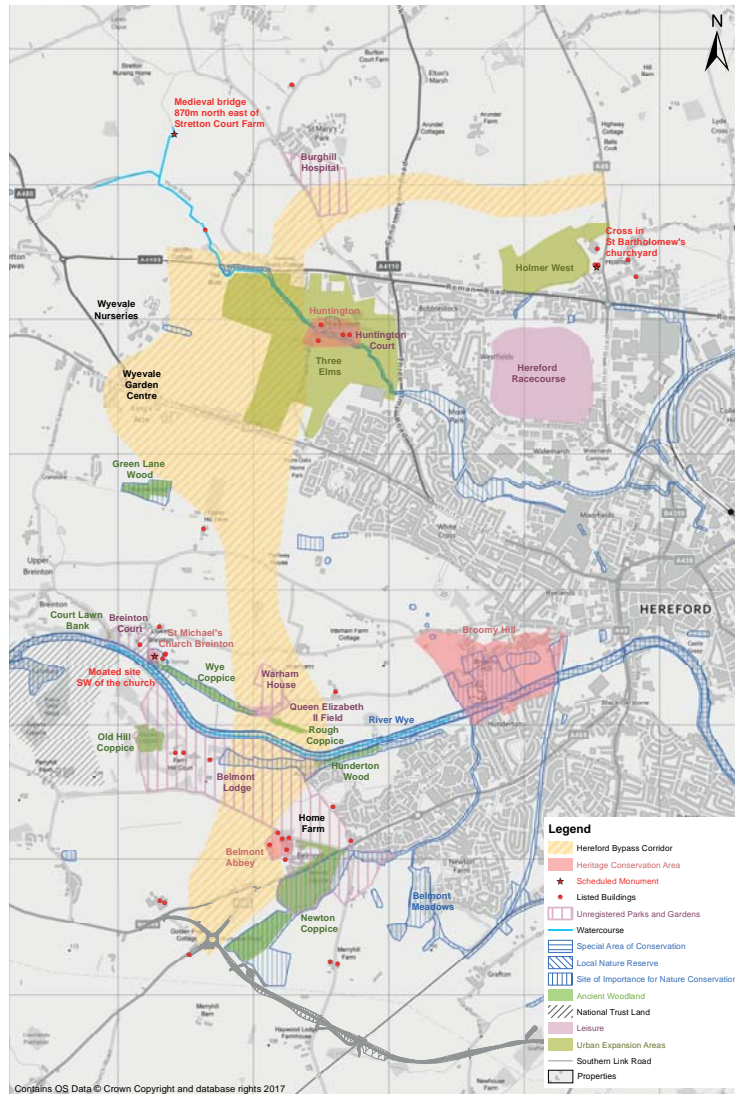
We have also identified:

- Wildlife habitats
- Buildings/areas of historical importance
- Public rights of way
- Major parks and conservation areas

The plan opposite shows some of these issues.



Please help us identify any further issues



What happens next?

Over the next two years we will be undertaking further technical work to assess possible bypass routes. These will include (but not be limited to):

- Surveying residential and business locations
- Traffic modelling and forecasting
- Building surveys (including historical)
- Topographical surveys
- Ecological surveys
- Archaeological assessments
- Environmental assessments
- Further consultations with the public and key stakeholders

This work will enable us to select possible bypass route options for further investigation.

A bypass alone would not deliver all of the HTP objectives. As well as developing a bypass, we will identify a package of walking, cycling, bus and public space improvements.

Here are examples of possible improvements:

- Safer and better cycling routes (such as new dedicated cycle lanes, cycle friendly junctions, reduced speed limits and traffic-free routes)
- Safer and better walking routes (such as wider footways, improved pedestrian crossing facilities, reduced speed limits and traffic-free routes)
- A more attractive urban environment (such as boulevard-style streets, shared space and the planting of trees to create green corridors)
- Junction treatments (for example improved shared space and raised tables to slow traffic)
- Improvements to bus stops, bus services and facilities (such as real time information displays, shelters and seating)

100



Please help us identify any further suggested improvements

Several stages of consultation will be undertaken as the Hereford Transport Package progresses.

Your feedback is very important to us

Attend our exhibition at the Courtyard from Tuesday 4 April – Thursday 6 April, between 11am-7pm.

The exhibition will be available to view from Tuesday 11 April – Friday 19 May (during opening hours) in the lobby at Hereford Library. The exhibition will be manned every Wednesday from 2pm-4pm until the consultation ends.

You can let us have your views in a number of ways:



Fill in the consultation survey today or online at www.herefordshire.gov.uk/HerefordConsultation

If you would like a hard copy of the survey to be sent to you please contact us via the following:



Email us at: HerefordConsultation@balfourbeatty.com



Write to us at: **Hereford Consultation, Balfour Beatty Living Places, Unit 3, Thorn Business Park, Rotherwas, Hereford, HR2 6JT**



Call us on: **01432 261800**


The deadline for feedback is **Monday 22 May 2017**

Further information



www.herefordshire.gov.uk/HerefordConsultation

Hereford Transport Package timeline

- 1 **2016:** Undertook engineering, environmental research, identified issues and started traffic surveys.
- 2 **Early 2017:** Phase 1 Public Consultation to introduce the Hereford Transport Package and get public feedback.  **We are here**
- 3 **2017-2018:** Engineering, environmental surveys, further traffic surveys, development and assessment of bypass routes. Identify and assess walking, cycling, bus and public space improvements.
- 4 **Late 2017:** Phase 2 Public Consultation to present the possible bypass routes and walking, cycling, bus and public space improvements.
- 5 **2018:** Further technical survey and design work. Preferred bypass route development and assessment. Development and assessment of walking, cycling, bus and public space improvements
- 6 **Mid 2018:** Phase 3 Public Consultation to present the proposed bypass route and walking, cycling, bus and public space improvements.
- 7 **Late 2018:** Preferred bypass route confirmed.
- 8 **2019:** Prepare and submit planning application for bypass and walking, cycling, bus and public space improvements.
- 9 **2019:** Approvals given and construction commences.
- 10 **From 2022:** Phased opening.

Appendix E

CONSULTATION QUESTIONNAIRES

We invite you to complete this questionnaire to give us your views about the Hereford Area Plan (HAP) and Hereford Transport Package (HTP). Your comments will be treated confidentially.

The consultation exhibition materials provide information on the HAP and HTP. These are available to view at The Courtyard between Tuesday 4 April and Thursday 6 April 2017, and at Hereford Library between Tuesday 11 April and Friday 19 May 2017. Consultation information is also available online at www.herefordshire.gov.uk/HerefordConsultation. An online version of the questionnaire is available on this webpage.

The questionnaire has three main sections: HAP, HTP and the consultation in general. You are welcome to only answer questions on the topics which are of interest to you if you would prefer.

Post Code*: ____ / ____

*This is only required to check the geographical origin of responses.

The Hereford Area Plan

Please complete this section of the questionnaire to provide feedback on the Hereford Area Plan. The associated Issues and Options Paper will help you to respond to the questions.

Housing

Question 1: Can greater use be made of land that has been previously developed (Brownfield land) for new housing?

- a) Yes
- b) No

a)	
b)	

If yes, how?

Question 2: Should planning policies be developed to help meet the needs of specific groups of the population, for example older people?

- a) Yes
- b) No

a)	
b)	

Question 3: Should the plan provide advice upon an appropriate density of housing development in different parts of the city?

- a) Yes
- b) No

a)	
b)	

Question 4: Do you agree that the HAP should only identify housing sites for a minimum of 10 or more dwellings?

- a) Yes
- b) No

a)	
b)	

If no, please explain

Question 5: Should there be a boundary drawn to show where new development can happen and where it should be limited to protect the countryside?

- a) Yes
- b) No

a)	
b)	

If yes, what are the most important factors to help define it?

Question 6: Should the HAP include additional policies for affordable housing in addition to those in the Core Strategy?

- a) Yes
- b) No

a)	
b)	

If yes, should the plan be specific on types and tenures of affordable homes required?

- c) Yes
- d) No

c)	
d)	

Question 7: Should the plan contain guidance around Houses in Multiple Occupation (HMO)?

- a) Yes
- b) No

a)	
b)	

If yes, what are the main factors that should be considered?

Question 8: Should the HAP include a policy to encourage self and custom built homes?

- a) Yes
- b) No

a)	
b)	

If yes, what issues should it include?

Question 9: Should guidelines be given within the plan to support methods of high quality design?

- a) Yes
- b) No

a)	
b)	

If yes, are there any particular issues that should be covered?

Social and Community Facilities and Open Spaces

Question 10: Should there be policies to address how developers can contribute towards community facilities?

- a) Yes
- b) No

a)	
b)	

Question 11: Are there improvements that need to be made to existing community facilities?

- a) Yes
- b) No

a)	
b)	

If yes, where?

Question 12: What factors should be taken into account when protecting areas of open space?

Question 13: Are there under-utilised parks, playgrounds or areas of open space that could be put to a different open space use, for example allotments or community gardens?

- a) Yes
- b) No

a)	
b)	

If yes, what and where?

Question 14: Do you think there is a need for more allotment provision, for example as part of new housing developments or on existing open spaces?

- a) Yes
- b) No

a)	
b)	

If yes, where?

Question 15: Do you think the correct issues have been identified relating to sport, community facilities and open space in this document?

- a) Yes
- b) No

a)	
b)	

If no, please explain

Movement (see also associated [Hereford Transport Package questions 46 – 52](#))

Question 16: How can access to the railway station be improved?

Question 17: Could the current city car parks be used more effectively or improved?

- a) Yes
- b) No

a)	
b)	

If yes, how?

Question 18: Is there a need for more car parking to be identified?

- a) Yes
- b) No

a)	
b)	

If yes, what form should it take?

- a) Multi-storey provision
- b) Park and choose provision
- c) Other

a)	
b)	
c)	

Question 19: Would it be appropriate to develop a policy requirement for proposals for larger developments to provide a Travel Plan as part of a planning application?

- a) Yes
- b) No

a)	
b)	

Question 20: Can you suggest better ways to manage freight transportation throughout the city?

Jobs

Question 21: Should the HAP identify more land for new employment development?

- a) Yes
- b) No

a)	
b)	

If yes, what type of development eg. offices, manufacturing?

Question 22: Should the HAP aim to broaden the local economy by supporting a wider range of employment types?

- a) Yes
- b) No

a)	
b)	

If yes, what types would you suggest?

Question 23: Should the HAP allow for a broader range of activities on existing employment sites of poorer quality?

- a) Yes
- b) No

a)	
b)	

If yes, what would be considered an appropriate alternative use? Eg Sport and leisure facilities.

City centre and retail

Question 24: Should the HAP identify land for further new retail development?

- a) Yes
- b) No

a)	
b)	

Question 25: Should the HAP define the key shopping streets and keep them mainly for retail uses?

- a) Yes
- b) No

a)	
b)	

Question 26: Should the HAP allow for different uses where suitable in underutilised areas of the city centre?

- a) Yes
- b) No

a)	
b)	

Question 27: Should the HAP offer additional policy to encourage use of the upper floors in the town centre for residential use?

- a) Yes
- b) No

a)	
b)	

Question 28: Is additional policy required for retail development proposals outside the city centre?

- a) Yes
- b) No

a)	
b)	

University

Question 29: Which parts of the city could best accommodate university buildings and facilities either through conversion of existing building or new buildings?

Question 30: What opportunities are there for university facilities to be shared with the public and/or the wider community e.g. shared conference facilities?

Question 31: Do you think there is potential for the new university to share facilities with the existing colleges to expand on existing partnership between educational institutions?

- a) Yes
- b) No

a)	
b)	

If yes, please explain

Leisure and Tourism

Question 32: Should additional hotel and/or conference facilities be provided in Hereford?

- a) Yes
- b) No

a)	
b)	

If yes, where?

Question 33: Could better use be made of the River Wye as a tourist attraction and for leisure activities whilst protecting its special qualities?

- a) Yes
- b) No

a)	
b)	

If yes, how?

Question 34: Is there a need for any additional policy relating to the restoration of the Canal?

- a) Yes
- b) No

a)	
b)	

If yes, what issues should be covered by that policy?

Question 35: Are there any opportunities to provide new or expanded leisure facilities that should be considered or identified by the HAP?

- a) Yes
- b) No

a)	
b)	

If yes, what?

Natural Environment

Question 36: Are there ways the green infrastructure could be improved? Please refer to Section 15 of the HAP Issues and Options Paper.

- a) Yes
- b) No

a)	
b)	

If yes, how?

Question 37: Are there any areas that require better connectivity of wildlife corridors?

- a) Yes
- b) No

a)	
b)	

If yes, where?

Question 38: Should the HAP include additional policies to protect the landscape and environmental qualities of the city?

- a) Yes
- b) No

a)	
b)	

If yes, what issues should these policies include?

Question 39: Can we achieve greater access to and use of the river whilst respecting its special qualities?

- a) Yes
- b) No

a)	
b)	

If yes, how?

Question 40: Should the HAP include a policy that relates to how land use affects pollution?

- a) Yes
- b) No

a)	
b)	

If so, what issues should the policy cover?

Question 41: Should the HAP address the issue of climate change?

- a) Yes
- b) No

a)	
b)	

Built Environment

Question 42: Do you think more specific and detailed policies for the historic environment and heritage assets in addition to those included in the Core Strategy are required in the HAP?

- a) Yes
- b) No

a)	
b)	

If yes, please explain

Question 43: Do you think that specific policies are required to achieve high quality design in locations where planning proposals could impact upon heritage assets?

- a) Yes
- b) No

a)	
b)	

Question 44: Should the plan include guidelines to be used when existing conservation areas are being reviewed or new ones designated?

- a) Yes
- b) No

a)	
b)	

Question 45: Are there additional issues or options which the HAP could look to address or do you have any other comments upon the contents of the document?

Please go to question 53 if you do not wish to give feedback on the Hereford Transport Package

The Hereford Transport Package

Please complete this section of the questionnaire to provide feedback on the Hereford Transport Package. Your feedback will contribute to the development of possible bypass routes, and walking, cycling, bus and public space improvements within Hereford.

Question 46: Do traffic conditions in Hereford need to be improved?

- a) Yes
- b) No

a)	
b)	

Question 47: What do you think are the current transport problems in Hereford?

Please rank your top five responses, where 1 is the biggest problem.

- a) Traffic congestion
- b) Long delays at signal junctions
- c) Lack of pedestrian crossings
- d) Poor access to public transport
- e) Poor cycling/walking infrastructure
- f) Difficulty crossing busy roads
- g) Traffic noise
- h) Poor air quality
- i) Vehicle emissions
- j) Poor public transport links to rural areas
- k) Volume of heavy goods vehicles
- l) Dependency on car use
- m) Other. Please specify below.

a)	
b)	
c)	
d)	
e)	
f)	
g)	
h)	
i)	
j)	
k)	
l)	
m)	

Question 48: Most short distance journeys in Hereford are made by car. What do you think puts some people off walking, cycling or using the bus for short trips?

The Hereford Transport Package will help us deliver a healthy and prosperous city by enabling new jobs and homes, improving existing journeys and promoting healthy lifestyles and less polluting types of transport.

The two main components of the package are:

- A new road to the west of the city. The exact route has not been determined but would include a new river crossing and junctions.
- Improvements in Hereford to increase walking, cycling and bus use for short distance journeys, and more attractive and healthier public spaces.

The proposed Hereford Bypass

Question 49: We are in the early stages of identifying possible bypass routes. How important do you think the following factors are in choosing the bypass route?

On a scale of 1 to 5 (1 being very important and 5 being not important at all), how important do you think the following factors are in choosing the bypass route?

<u>Factors to consider</u>	Level of importance (please circle)				
a) Impact on homes	1	2	3	4	5
b) Impact on businesses	1	2	3	4	5
c) Impact on landscape (e.g. historic buildings)	1	2	3	4	5
d) Reducing traffic in Hereford	1	2	3	4	5
e) Less congestion in Hereford	1	2	3	4	5
f) Access for tourism	1	2	3	4	5
g) Improved facilities for walkers, cyclists, bus users	1	2	3	4	5
h) Improved access to jobs and education	1	2	3	4	5
i) Are there other constraints within the Core Strategy bypass corridor we need to be aware of? Please specify below.	1	2	3	4	5

The proposed walking, cycling, bus and public space improvements

Question 50: Which of the following improvements do you think are your priorities?

On a scale of 1 to 5 (1 being very important and 5 being not important at all), how important are the following factors to you?

	Level of importance (please circle)				
a) Safer and better walking routes (for example, the provision of wider footways, improved pedestrian crossing facilities, reduced speed limits and traffic-free routes)	1	2	3	4	5
b) Safer and better cycling routes (for example, the creation of dedicated cycle lanes, cycle friendly junctions, reduced speed limits and traffic-free routes)	1	2	3	4	5
c) More reliable and quicker bus journeys (for example, bus priority on key routes into and out of the city)	1	2	3	4	5
d) More attractive public space (for example, boulevard-style streets, shared space and the planting of trees to create green corridors)	1	2	3	4	5
e) More reliable and quicker journeys by car (for example more traffic lanes and measures that prioritise cars)	1	2	3	4	5

Question 51: Are there any locations where you think walking, cycling, bus and public space improvements would be beneficial? Please write up to three locations, problems and your suggested solutions.

Location	What is the problem?	How can we solve the problem?

Question 52: Are there any other options we need to consider to help manage Hereford's transport problems?

The consultation

Question 53: Would you like to be added to the HAP and/or HTP contact databases to be kept up to date about the project as it progresses?

- a) Yes, both the HAP and HTP databases
- b) Yes, just the HAP database
- c) Yes, just the HTP database
- d) No

a)	
b)	
c)	
d)	

If yes, please provide your contact details below.

Name _____

Email _____

Phone number _____

Question 54: How did you hear about the consultation? Please tick all that apply.

- a) Received a letter or email
- b) Poster
- c) Sunshine Radio
- d) Hereford Times newspaper
- e) Hereford Times online
- f) Council's website
- g) Facebook
- h) Twitter
- i) Word of mouth
- j) Other, please specify

a)	
b)	
c)	
d)	
e)	
f)	
g)	
h)	
i)	
j)	

Question 55: Did you attend a public exhibition?

- a) Yes
- b) No (Go to question 58)

a)	
b)	

Question 56

- a) Did you receive sufficient notification about the public exhibition?
- b) Did the exhibition meet your expectations?
- c) Was the information displayed sufficient to answer any questions you had?
- d) Was the venue suitable?
- e) Were the opening hours sufficiently long?
- f) Were the staff sufficiently informed to answer your questions?

	Yes	No
a)		
b)		
c)		
d)		
e)		
f)		

Question 57: Do you have any suggestions about how we might improve future exhibitions?

About you (optional)

All personal data will be treated in line with our obligations under the *Data Protection Act, 1998*. This means your personal data will not be shared.

The information collected will help us identify the types of community members that we have and haven't heard from, so we can seek feedback that is broadly representative of the Hereford community.

Question 58: Are you a member of a local business or organisation? (Please tick one box)

a) Yes, please specify

b) No

c) Prefer not to say

a)	
b)	
c)	

Question 59: Which age group do you belong? (Please tick one box)

a) 0-15

b) 16-24

c) 25-34

d) 35-44

e) 45-54

f) 55-64

g) 65-74

h) 75-84

i) 85+

j) Prefer not to say

a)	
b)	
c)	
d)	
e)	
f)	
g)	
h)	
i)	
j)	

Question 60: What is your gender? (Please tick one box)

a) Male

b) Female

c) Other

d) Prefer not to say

a)	
b)	
c)	
d)	

Question 61: Do you consider yourself to have a disability?

a) Yes

b) No

c) Prefer not to say

a)	
b)	
c)	

Access to Information

Herefordshire Council and its consultants will use the questionnaires to shape the Hereford Area Plan and Hereford Transport Package. The data collected will not be used for any other purpose and the questionnaire will be disposed of securely after they have served this purpose.

Herefordshire Council is subject to the Freedom of Information Act, 2000, (Fol) and Environmental Information Regulations (EIRs) which means that questionnaires may be released in response to a request for information. However, all personal data will be treated in line with our obligations under the Data Protection Act, 1998. This means your personal data will not be shared.

Alternative formats of this questionnaire are available upon request by emailing herefordconsultation@balfourbeatty.com or by writing to us at

FREEPOST:RTHL-BBZH-JATH
(Hereford Consultation)
Balfour Beatty Living Places
Unit 3, Thorn Business Park
Rotherwas
HEREFORD
HR2 6JT

Please return this questionnaire and feedback by MONDAY 22 MAY 2017

THANK YOU FOR TAKING THE TIME TO COMPLETE THIS QUESTIONNAIRE

Appendix F

BREINTON PARISH TEMPLATES

FREEPOST: RTHL-BBZH-JATH
(Hereford Consultation)
Balfour Beatty Living Places
Unit 3, Thorn Business Park,
Rotherwas
HEREFORD,
HR2 6JT

May 2017

Dear Sir/Madam

Consultation Ref Hereford Transport Plan 2017

The Hereford Transport Plan consultation is premature. The Hereford transport package only applies to the North of the City. There is no information about the full South Wye Transport Package and how this would coordinate with the Hereford Transport Plan and reduce congestion in Hereford.

For a transport plan the Council have also failed to provide details of:-

1. A freight strategy for the County. How can the Council claim a “bypass” would “remove the need for many heavy goods vehicles to travel through the City” when they don’t know where freight is travelling?
2. A Waste and Minerals Plan for the County. This would identify how HGV movements involving waste and minerals would impact on the road network or could be moved to rail. This is relevant now that waste is being sent by Herefordshire to the Hartlebury incinerator in Worcestershire which is on the East side of the County.
3. Any evidence as to why Hereford needs a Bypass, particularly one to the West of Hereford. Since 2000, HGV traffic crossing Greyfriars Bridge in Hereford has declined steadily from 2,173 to 1,549 vehicles a day, a drop of over 28% (Dept for Transport AADF Stats 2000-2016)
4. The freight rail head at Moreton-on-Lugg has done more to move thousands of HGVs from City roads onto rail and yet no reference is made in the Hereford Transport Package about freight to rail.

FREEPOST: RTHL-BBZH-JATH

(Hereford Consultation)

Balfour Beatty Living Places
Unit 3, Thorn Business Park,

Rotherwas
HEREFORD,

HR2 6JT

May 2017

Dear Sir/Madam

Consultation Ref Hereford Area Plan / Hereford Transport Plan 2017

The proposed Bypass will destroy open countryside and high grade arable farm land.

The proposed bridge over the River Wye will have to be a wide span and high level bridge, intruding on the historic landscapes between Belmont and Breinton.

Building such a high level bridge crossing will be visible for miles around and will cause air and noise pollution to drift across the whole City.

When there is so little money available it would be better for the Council to support tourism and agricultural production by promoting sustainable transport policies prior to any road building. Herefordshire's principle asset is its unspoilt countryside and once lost, it is gone forever.

FREEPOST: RTHL-BBZH-JATH

(Hereford Consultation)
Balfour Beatty Living Places
Unit 3, Thorn Business Park,
Rotherwas
HEREFORD
HR2 6JT

Dear Sir/Madam,

May 2017

Consultation Ref Hereford Transport Plan 2017

What evidence is there to support that £132Million spent on a Bypass to the West of Hereford will improve transport choice and reduce short car journeys?

The Council's cost ignores the cost of demolishing at least 4 homes, blighting 166 along Kings Acre, and delaying development of new homes around the City.

The Hereford Area Plan and Transport Plan are an opportunity for the Council to provide a comprehensive sustainable transport network and improve travel choice for everyone in and around Hereford. The Bypass will not connect new homes with the majority of services in Hereford City such as shopping, health, higher education and jobs. The current proposals for a Bypass destroy what is so attractive about our City and will do nothing to support the 20% of adults who have no access to a car.

FREEPOST: RTHL-BBZH-JATH

(Hereford Consultation)

Balfour Beatty Living Places

Unit 3, Thorn Business Park,

Rotherwas
HEREFORD
HR2 6JT

May 2017

Dear Sir/Madam

Consultation Ref Hereford Transport Plan 2017

The proposed bypass will fail to address congestion through Hereford as only 17% of traffic entering Hereford is through traffic, the remaining 83% is destined for Hereford itself. Many short trips start and finish within the City.

The Hereford Transport Package gives no information about what has been done to reduce congestion for traffic into Hereford by sustainable measures and whether or not these have been successful. The Destination Hereford Funding of £4.97Million reduced car trips by over 4% from 2011 to 2015 by encouraging active travel and providing supporting infrastructure. More of this could be done and would be much better value for money.

There is no information about the sustainable transport proposals for the South Wye area and how these could become part of a comprehensive City wide network to reduce car trips within Hereford. Developing Safe Routes to school and school bus passes with extra benefits/lower cost would help reduce the impact of the school run which can increase traffic by 52% at peak times in Hereford.

The predicted cost of this road (£132 million) should be better spent on sustainable transport measures in Hereford. In accordance with Dept for Transport road building guidelines, only when sustainable transport measures have failed should Herefordshire Council consider building new roads.

REASONS TO CHALLENGE THE HEREFORD TRANSPORT PLAN HTP IS PREMATURE AND DISCONNECTED TO OTHER PLANS

1. The Hereford Transport Package only applies to the north of the City. There is no information about the South Wye Transport Package and how this would coordinate with the Hereford Transport Plan and reduce congestion in Hereford.
2. There is no freight strategy for the County so it is unclear how the Council can claim the “bypass” would “*remove the need for many heavy goods vehicles to travel through the City*”.
3. There is no Waste and Minerals Plan for the County. This plan would identify how movements of waste and minerals, by HGVs, would impact on the road network, especially now waste is being sent to the Hartlebury incinerator in Worcestershire.
4. There is no reference to supporting evidence to explain the transport proposals, in particular why Hereford needs a Bypass, particularly one to the West of Hereford.
5. Since 2000 HGV traffic crossing Greyfriars Bridge in Hereford has declined steadily from 2,173 to 1,549 vehicles a day, a drop of over 28% (Dept for Transport AADF Stats 2000-2016) . Why is a Bypass required?
6. The freight rail head at Moreton-on-Lugg has done more to move HGVs from City roads than any new road building, and yet no reference is made in the Hereford Transport Package about freight to rail.
7. With Herefordshire Council having insufficient money to maintain our existing road surfaces how can they promote a new road for £167Million (£132Million Bypass + £35Million Southern Link Road) attracting HGVs from the motorway network? HGVs are up to 160,000 times more damaging to road surfaces than the average car. Attracting extra lorries to our local roads will cause them to deteriorate faster, when they are already in a bad condition.

REASONS TO CHALLENGE THE HEREFORD TRANSPORT PLAN

ENVIRONMENT AND LANDSCAPE

1. Natural England letter to Herefordshire Council Nov 2011.
“The Council is aware that Natural England does not support the relief road proposal. We maintain our view that transport investment should focus on managing demand and prioritising environmentally sustainable, low carbon modes and technologies.”
2. A river crossing at Warham in Breinton would destroy the historic landscapes painted by the Herefordshire artist Brian Hatton and the setting of the Breinton Springs scheduled monument. These landscapes have remained unchanged for hundreds of years.
3. The proposed Bypass will destroy open countryside and high grade agricultural land, severing quiet lanes and the tourist cycle route that passes through historic orchards.
4. Breinton was identified by the Victorians as the “Green lung” of Hereford as prevailing winds bring fresh air across the City. Building a high level bridge in Breinton will allow pollution (air pollution, light pollution from headlights, noise) from extra cars and lorries to spread across the whole City.
5. Any accident on this bridge would pose a pollution risk to the City water intake just a short distance below the proposed River crossing.
6. Building the Bypass to the West of Hereford through the Three Elms area poses a risk to an important geological Water Protection Zone which is the main source of water for the 2 largest employers in Hereford, Cargill and Heineken. Pollution risks over 3,000 jobs and also the jobs of their local suppliers.

REASONS TO CHALLENGE THE HEREFORD TRANSPORT PLAN

VALUE FOR MONEY OR WASTE OF OUR MONEY ?

1. What evidence is there to show that £132 Million spent on a Bypass will improve transport choice and reduce the high level of short car trips in Hereford?
2. CPRE March 2017 have demonstrated that road building schemes never deliver the net economic benefits they promise. New road projects underestimate the economic value of the environment and the landscape. The bypass has not been shown to deliver better value to the taxpayer than alternatives to road building.
3. Herefordshire Council's Local Transport Plan consultation 2015 - local people gave priority to "improving access to services for those living in rural areas – by improving the resilience of our road network and by working closely with all transport operators to deliver a range of transport options **particularly for those without a car.**" (Responses were 40.61% 1st choice). The Council does not appear to be following the people's choice, but the lowest ranked choice of building new roads, which is the most expensive and least effective way to tackle urban congestion.
4. Road building discriminates against 17-20 year olds as 60% of these young people do not have a licence to drive. Overall 20% of adults in the UK do not have access to a car.

REASONS TO CHALLENGE THE HEREFORD TRANSPORT PLAN

SUSTAINABLE TRANSPORT ALTERNATIVES

1. Herefordshire Council's "Destination Hereford" application 2011 states "**Short trips. The 2001 Census records 67% of Hereford residents travel less than 5km to work. This is well above the national average with 56% of journeys to work are made by car we have a fantastic opportunity to deliver much greater modal shift**". Numerous reports have shown that building roads increases the number of car journeys.
2. Providing infrastructure for Safe Routes to School could cut congestion connected with the school run by up to 52% at peak times on roads in Hereford. (Data from Destination Hereford application 2011).
3. £4.97 million was spent through the Destination Hereford project from 2011 to 2015. The result was that:-
 - i. active travel (cycling and walking) trips increased from a 22% mode share in 2012 to a 27% mode share in 2015
 - ii. Car trips undertaken across journeys for all purposes have decreased from a 66% mode share in 2012 to 62% in 2015.
4. The Department for Transport Nov 2014 Report "Claiming the Health Dividend" concluded the benefits of walking and cycling were higher than the benefits from building new roads, were quicker to implement, and the work was more likely to be contracted to local based companies.
5. Higher levels of walking and cycling are shown to support local shops, improve communities, reduce crime, improve health and well-being and deliver better value for money than road building schemes.
6. Highways Agency Letter re the Southern Link Road (7th Aug 2014) "**the building of new road infrastructure could only be justified in policy terms when other avenues such as travel planning and sustainable travel modes had been developed and shown not to address the transport needs and issues identified.**"

Appendix G

SUMMARY OF WRITTEN SUBMISSIONS

Group / Stakeholder	HTP	HAP
Church Commissioners for England	CCE fundamentally supports the provision on the bypass to the west of Hereford City as part of the HTP, especially welcoming the delivery of the central section of the bypass between the A465 and A438, incorporating the critical second river crossing by 2022. Where possible the timescales for establishing the preferred route should be expedited. Timescale of completion of the bypass could potentially delay the delivery of housing	CCE supports the aim of the Hereford Area Plan (HAP) to allow for a range of opportunities for the provision of different types of housing to offer choice and meet local needs in a variety of locations. CCE fundamentally supports the provision on the bypass to the west of Hereford City as part of the HTP
Dean Lewis Estates	No comments on the HTP	Response in relation to the HAP. They endorse the councils proactive approach to housing delivery and that the council should allocate all land necessary to meet the residual housing target. Dean Estates also responded to Q1-6 of the HAP (housing)
Hereford BID	No comments on the HTP	They have not consulted fully with members as they feel it would be more appropriate once specific proposals are available for members to provide comments on.
Hereford Civic Society	Would like to see shared space design and 20mph throughout the city.	Provided a written response the consultation questionnaire. They consider the initial consultation document to be quite confusing, as well as confusion over the role of the council
Hereford Sustainable Transport Group	Agree with Council's stated objectives, however believe that the 'road centric' approach is financially and environmentally costly and would like their listed sustainable initiatives to be fully explored before further entertaining road building proposals. Their 'sustainable approach' sets out achievable measures that should be worked upon now, not in the shadow of a bypass.	Agree with Council's stated objectives, however believe that the 'road centric' approach is financially and environmentally costly and would like their listed sustainable initiatives to be fully explored before further entertaining road building proposals
Historic England	Their main comments relate to the proposed Hereford Bypass and the need for the historic environment to be fully considered in any proposal or route selection. Historic England would like to be fully engaged in the process and to comment on the route selection methodology and routes proposed at the earliest stage. They would welcome a meeting to discuss the proposed bypass and the Area Plan. They support the principles of a better urban environment and promoting walking and cycling and request that any proposals are sensitive to the historic environment or Hereford and are in keeping with local plan policies and the NPPF	Their main comments relate to the proposed Hereford Bypass and the need for the historic environment to be fully considered in any proposal or route selection. Historic England would like to be fully engaged in the process and to comment on the route selection methodology and routes proposed at the earliest stage. They would welcome a meeting to discuss the proposed bypass and the Area Plan. They support the principles of a better urban environment and request that any proposals are sensitive to the historic environment or Hereford and are in keeping with local plan policies and the NPPF
Network Rail	No comments on the HTP	Would welcome the opportunity to meet with the council to discuss the potential access for rail freight to be increased. They believe the HAP should set a strategic context requiring developer contributions to fund rail improvements
Natural England	The Bypass will have an impact on the environment and will need to be carefully considered and planned to minimise the impacts and mitigate for them. It is also an opportunity to improve green infrastructure, connectivity to fragmented habitats and wildlife corridors and water quality. The proposal should seek to ensure improvements and net gains in line with section 109 of the National Planning Policy Framework. Natural England welcomes engagement at an early stage to ensure the best environmental outcomes.	Reponse gives advice on some of the HTP and HAP questions from the consultation questionnaire. Gave advice to the council when preparing the plans on matters such as habitats, ecological networks, soils, air pollution, water quality and flood risk management
Powys Council	Support for the proposed bypass and would welcome the wider economic benefits and opportunities the project would bring.	Support for the proposed bypass
Savills on behalf of Golf Inns	Savills chose to respond on the HTP with the consultation questionnaire. Their responses have been incorporated into the overall survey analysis, but key comments are the route needs to be developed to provide sufficient access junctions onto the bypass, for future development to the west of Hereford and existing development. They consider that new development opportunities could assist in the delivery of the bypass	As part of the Hereford Area Plan (HAP) requirements to deliver an additional 1,500 to 2,000 new homes over the plan period, we consider that the former Belmont Golf Course also provides a significant opportunity to assist in meeting this requirement. Development at this scale would make the most of the sustainability and accessibility opportunities that the proposed Relief Road will provide and help assist Herefordshire Council in meeting their housing requirements. At a density of 35dph this same area of land could deliver around 820 dwellings
Taylor Wimpey	Taylor Wimpey are concerned about the absence of a firm timescale of the consultation stages and establishing the preferred western corridor route. They would want to see the HTP adopted in a timely manner with a framework that will enhance housing delivery. They also regard landscape and historic buildings should be given a high level of importance when determining the preferred route	No comments on the HAP
Hereford Market	Strongly supports the provision of the western bypass as it will greatly improve its connectivity to those south of the river, but would like to be consulted on the route and its proximity to the Livestock Market as they do not want to affect the site	Strongly supports the provision of the western bypass as it will greatly improve its connectivity to those south of the river, but would like to be consulted on the route and its proximity to the Livestock Market as they do not want to affect the site
Welsh Water	When a more defined route is determined, Welsh Water will provide an update in terms of the location of their assets.	Provided comments on the strategic sites, and advise the council they are in the process of upgrading the public water supply network within Hereford and as such cannot allow new connections until the improvements are completed. They commented on the key headings of the HAP
WYG on behalf of British Land	No comments on the HTP	Emphasise their desire to be part of any future discussions regarding future retail and leisure provision within Hereford, and enclose a completed questionnaire.
Woolhope Naturalists Fields Club	Relief Road will only have minimal impact on Herefords traffic. The road will simply serve the residents of the new housing estates, which have yet to be built.	No comments on the HAP
Hereford and Worcester Gardens Trust	The Bypass will seriously affect the beauty of the landscape immediately to the west of Hereford, including orchards, pasture, parks and gardens	No comments on the HAP



Balfour Beatty
Living Places

HEREFORDSHIRE COUNCIL

HEREFORD TRANSPORT PACKAGE (HTP) - HEREFORD BYPASS

Corridor Assessment Framework





HEREFORDSHIRE COUNCIL

HEREFORD TRANSPORT PACKAGE (HTP) - HEREFORD BYPASS

Corridor Assessment Framework

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HEREFORDSHIRE COUNCIL

HEREFORD TRANSPORT PACKAGE (HTP) - HEREFORD BYPASS

Corridor Assessment Framework

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Signature						
Checked by	Matthew Godfrey	Marc Thomas/ Matthew Godfrey/ Martyn Brooks	Martyn Brooks	Martyn Brooks	Martyn Brooks	Martyn Brooks
Signature						
WSP Authorised by	Kate Emerson	Gavin Lewis	Gavin Lewis	Gavin Lewis	Gavin Lewis	Gavin Lewis
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FIGURES

Figure 2.1 Herefordshire Local Plan Core Strategy Key Diagram

Figure 2.2 Environmental Constraints Plan

Figure 2.3 Route Corridors (Long List)

Figure 5.1 Route Corridors (Short List)

APPENDICES

Appendix A Assessment Criteria

Appendix B Assessment Results

1 INTRODUCTION

- 1.1.1. This report outlines the way in which a long list of possible route corridors for the Hereford Bypass has been developed, and explains how these have been assessed to identify a short list of possible route corridors. This note supports Stage 1 of WebTAG. More detailed appraisal will be undertaken in subsequent stages of the project.
- 1.1.2. Accordingly the note describes:
 - 1 The development of the route corridors
 - 2 The approach to developing and setting appraisal criteria
 - 3 The results of the initial sifting, and
 - 4 Recommendations for a short list of route corridors for further assessment.

2 THE DEVELOPMENT OF THE ROUTE CORRIDORS

- 2.1.1. The Herefordshire Local Plan Core Strategy (2015) established the need for a bypass, referred to as the Hereford Relief Road in policy since 2007, as a means to achieve the Core Strategy housing and wider development aspirations. The bypass is an integral part of the HTP.
- 2.1.2. The Study of Options Report (Amey, 2010) referred to an assessment of the Eastern Inner Corridor, Eastern Outer Corridor, Western Inner Corridor, and Western Outer Corridor. The report concluded that the Western Routes have less of an environmental impact when compared to the Eastern Routes. As a result of the appraisals, the study recommended that the inner routes were preferable to the outer routes, also on environmental grounds.
- 2.1.3. Much work has been carried out by the Council over recent years leading to the identification of a corridor for the bypass to the west of the city. This corridor is shown in diagrammatic form in the Hereford Key Diagram taken from the adopted Hereford Core Strategy 2015, as reproduced in Figure 2.1 below.
- 2.1.4. A first phase of public consultation on the HTP took place during spring 2017. The aim of this consultation was to introduce the overall package (bypass plus active travel measures) to the public, to provide an update on the ongoing work, to outline the future programme for the project, and to seek views on the package. A Phase 1 Consultation Report was prepared, the content of which has further informed the development of the route corridors.
- 2.1.5. Specifically, the Phase 1 Consultation confirmed the importance of ensuring that any bypass should reduce traffic and the levels of congestion within Hereford as a first priority. The impact on landscape (including historic buildings) and the crossing of existing residential areas were also considered to be important factors to consider, as was the potential to improve facilities for walkers, cyclists and bus users in the wider Hereford area in combination with a bypass.
- 2.1.6. The route corridors were identified via multi-disciplinary workshops involving a mix of transportation, highways and environmental professionals, as advocated by WebTAG. This ensured that a range of issues were covered, including traffic routeing, highway alignments and environmental constraints. The Environmental Constraints Plan Figure 1 is shown in Figure 2.2.
- 2.1.7. The Environmental Constraints Plan shows that within and adjacent to the Core Strategy area is the River Wye Special Area of Conservation and Site of Special Scientific Interest, Ancient Woodland, Scheduled Monuments, Grade II* and Grade II listed structures and the River Wye and Yazor Brook and associated flood zones. A number of trees have been recorded in the Core Strategy area as being of Ancient / Veteran, Tree Preservation Order and / or Category A value. There are also a number of residential areas, footpaths and bridleways, unregistered parks and gardens and sites of importance for nature conservation within the area.
- 2.1.8. The route corridors also recognise the potential impact on existing development, particularly homes and businesses along Kings Acre Road and Roman Road. This was addressed by identifying locations on these largely east-west roads where a north-south bypass and junction would cause least disruption. A number of these locations were identified for each road, indicating the preferred crossing points.
- 2.1.9. Whilst the allocated development sites at Three Elms and Holmer West lie partly within the Core Strategy corridor, they were not included as a constraint in the identification of potential bypass route corridors.
- 2.1.10. The identification of possible route corridors drew upon work undertaken previously by the Council (as reported on the Council's website – <https://councillors.herefordshire.gov.uk/documents/s50035695/Hereford%20Relief%20Rd%20Cabinet%20Report%20final.pdf>) as well as considering possible new route corridors. All possible route corridors sat within, or very close to, the overall corridor identified in the Core Strategy.
- 2.1.11. By following the above process, 24 possible route corridors were identified. These are shown diagrammatically in Figure 2.3.

Figure 2.1 Herefordshire Local Plan Core Strategy Key Diagram

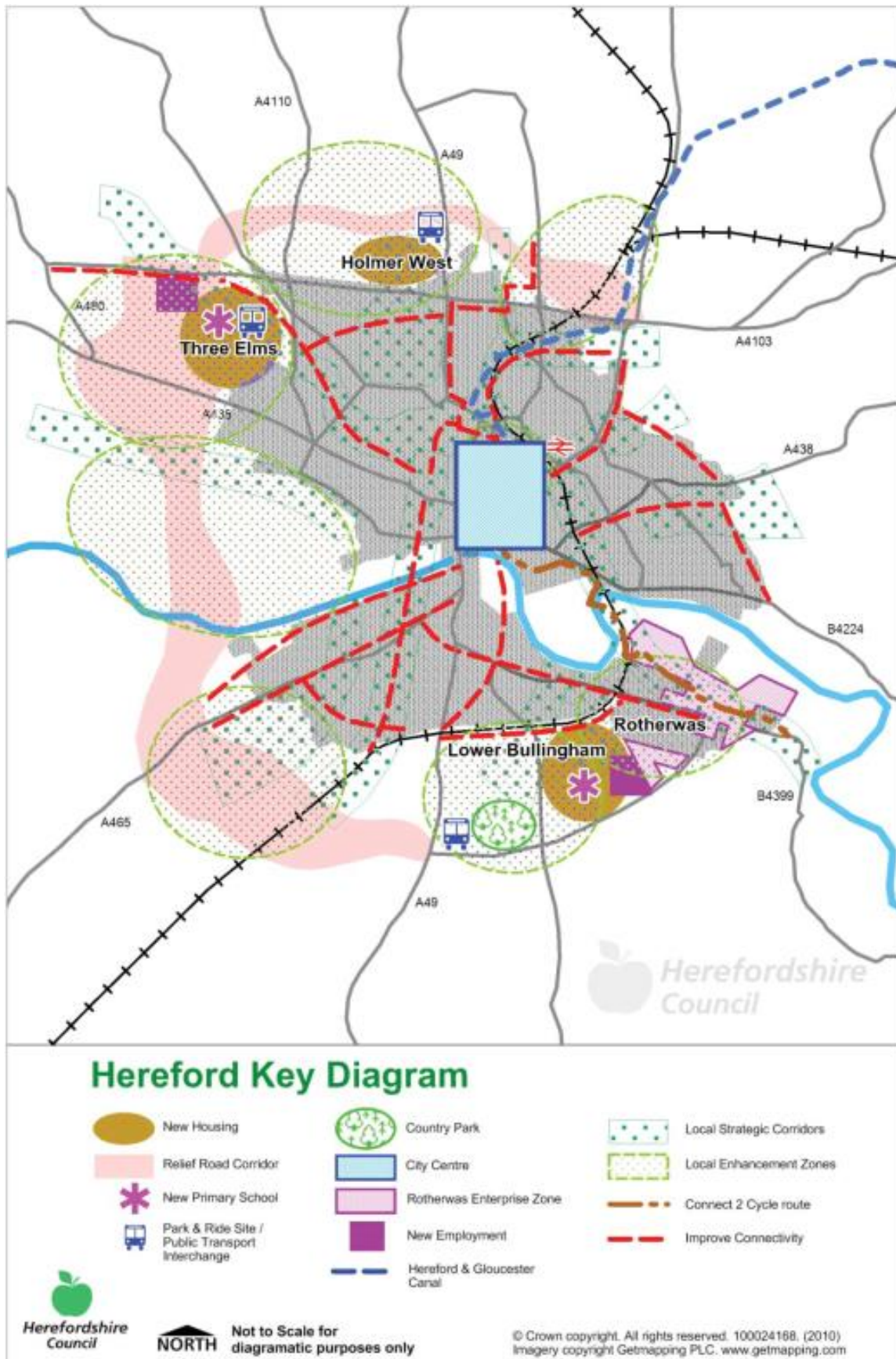


Figure 2.2 Environmental Constraints Plan

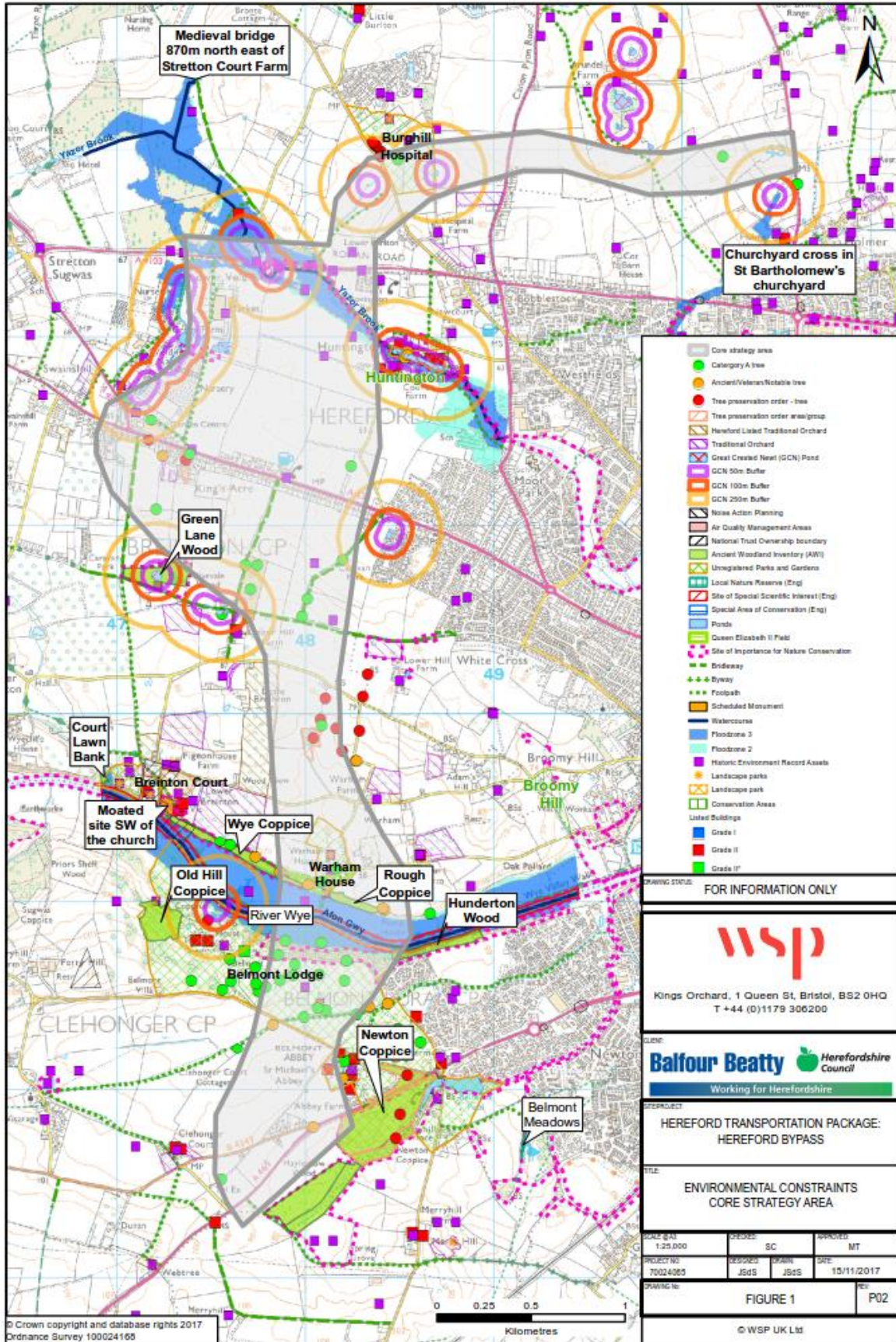
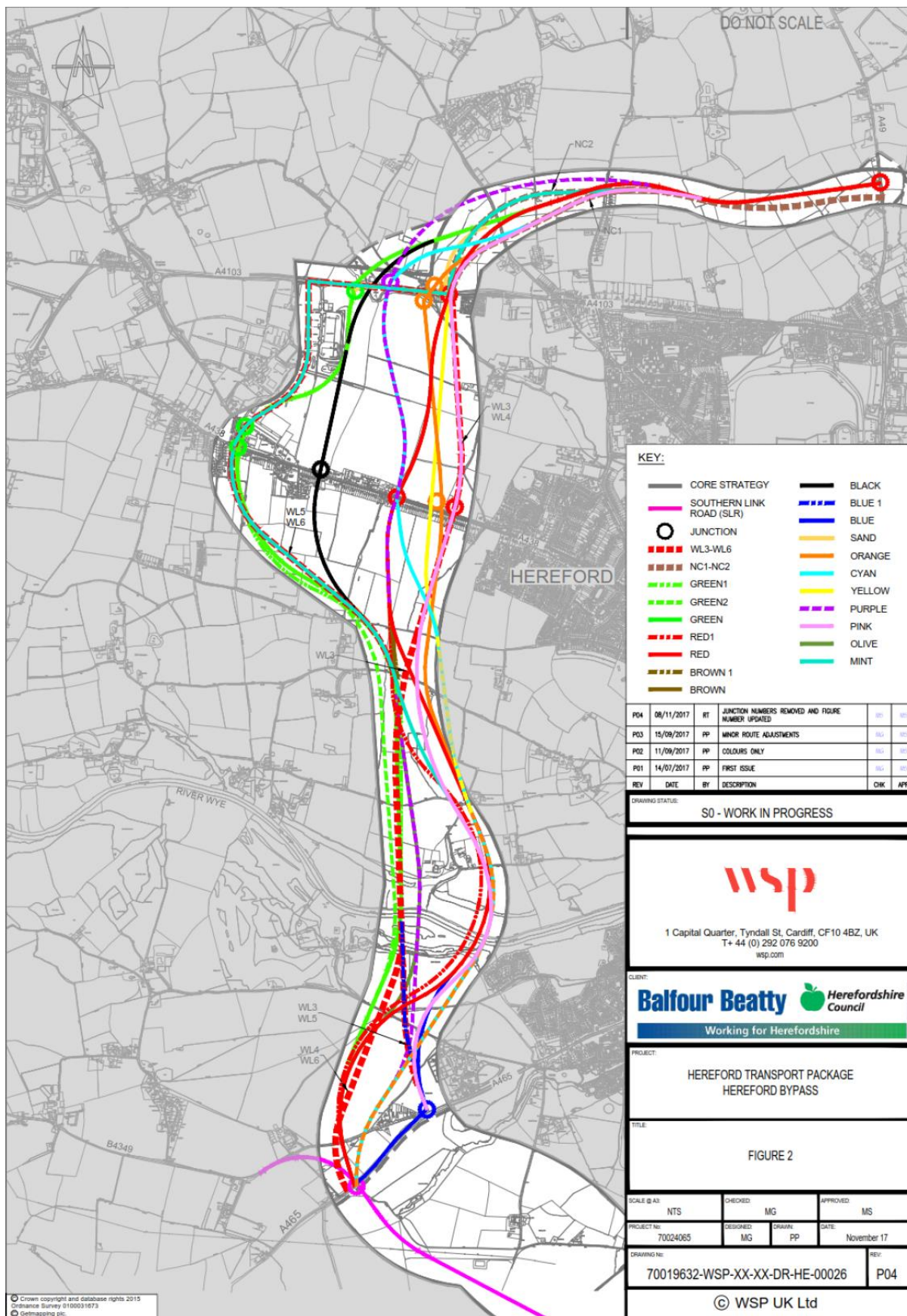


Figure 2.3 Route Corridors (Long List)



3 APPROACH TO DEVELOPING AND SETTING APPRAISAL CRITERIA

- 3.1.1. The consenting process for the proposed bypass and how the scheme would obtain planning permission has yet to be determined. However, we have followed national planning policies for the purpose of appraising the different route corridors which will enable this to be determined going forward. The relevant National Policy Statement (NPS) in this case is the National Policy Statement for National Networks (NPSNN, 2014). It also provides planning guidance for promoters of national road and rail schemes, in this case Herefordshire Council.
- 3.1.2. Throughout the route corridor identification process, the policy and legal tests contained within the NPSNN have been considered in developing a series of criteria by which a long list of possible route corridors can be sifted into a short list.
- 3.1.3. In recognition of the above, and drawing on WebTAG guidance and consistent with the approach outlined in Highways England's Project Control Framework (PCF), the approach to assessment has been as follows:
- Identification of relevant policies as set out in the NPSNN
 - In the light of those policies and analysis of the constraints and opportunities of each of the possible route corridors to establish criteria for route assessment
 - The setting of scoring ranges for each of the assessment criteria to reflect the characteristics of the Core Strategy corridor, and
 - Assessment of the route corridors against the assessment criteria.
- 3.1.4. The criteria and their indicators will be refined as more detailed analysis is undertaken in subsequent stages of the project. This proportionate approach to the assessment is consistent with recommendations in WebTAG and the PCF.
- 3.1.5. The route corridor assessment framework consists of 30 criteria encompassing a wide range of environmental, physical and economic issues, as shown below. These have been selected on the basis of their importance to the efficiency and effectiveness of the bypass itself, plus to reflect particularly sensitive locations within the possible route corridors.
- 3.1.6. Criteria such as traffic relief to the city centre have not been included as they are considered to be broadly similar across all possible route corridors at this stage of the project. Similarly, the possible route corridors are able to accommodate all design standards up to and including dual carriageway.

Route Corridor Assessment Framework Criteria		
<p>Conservation</p> <ul style="list-style-type: none"> • Ancient Woodland • River Wye Site of Special Scientific Interest (SSSI) • River Wye Special Area of Conservation (SAC) • Sites of Importance for Nature Conservation (SINC) • Veteran Trees • Wye Coppice and Rough Coppice Ancient Woodland <p>Landscape</p> <ul style="list-style-type: none"> • Landscape and visual impact in central and northern part of study area • Landscape and visual impact north of River Wye • Landscape and visual impact on River Wye Corridor • Landscape and visual impact south of River Wye 	<p>Heritage</p> <ul style="list-style-type: none"> • Belmont Lodge Unregistered Park and Garden • Setting of Belmont Abbey (Grade II*) and listed structures in curtilage • Setting of Belmont Lodge (Grade II*) and listed structures in curtilage • Setting of other Listed Properties • Warham House and Burghill Hospital Unregistered Parks and Gardens <p>Agricultural</p> <ul style="list-style-type: none"> • Agricultural Landtake (best and most versatile agricultural land) • Heritage Orchard • Mature Orchards <p>Amenity</p> <ul style="list-style-type: none"> • QEII Playing Fields 	<p>Flooding</p> <ul style="list-style-type: none"> • River Wye Flood Plain • Yazor Brook Flood Plain <p>Noise</p> <ul style="list-style-type: none"> • Kings Acre Road Noise Action Planning Area • Noise impact on Residential Estate (Dorchester Way) south of River Wye <p>Development</p> <ul style="list-style-type: none"> • Impact on Three Elms • Kings Acre Road Business Take <p>Construction</p> <ul style="list-style-type: none"> • House Demolition • Length of Bridge • Scheme Length • SLR Connectivity • Scheme Cost

- 3.1.7. Each of the criteria are discussed in greater detail in Appendix A, including how scores for each criteria have been derived.
- 3.1.8. In order to assist the sifting process, further workshop discussions identified 17 criteria which were considered to be of greatest importance. Appendix B contains the results of applying the 17 criteria to each one of the 24 route corridors. These findings are discussed in the next section.

4 THE RESULTS OF THE INITIAL SIFTING

- 4.1.1. In addition to the scoring of the criteria, and in accordance with WebTAG guidance on 'initial sifting', the 24 possible route corridors have also been reviewed to identify those which are unlikely to pass key viability or acceptability criteria. Two areas of key importance were identified – Ancient Woodland and Southern Link Road Connectivity, and when applied reduce the number of possible route corridors from 24 to seven. As a consequence, this 'initial sifting' has been sufficient to reduce the number of possible route corridors to a suitable short list. This is explained further below.

ANCIENT WOODLAND

- 4.1.2. Ancient Woodland designation is the most important policy consideration in this instance as the Examining Authority is directed by the NPSNN (Paragraph 5.32) to refuse any application for Development Consent where it can be demonstrated that there are alternative routes that avoid ancient woodland. Of the 24 possible route corridors, 14 would impact directly upon Ancient Woodland. Since there are ten possible route corridors which avoid Ancient Woodland, these 14 route corridors have not been taken forward to the short list.
- 4.1.3. The NPSNN policy (Paragraph 5.32) also applies to Veteran trees, although it is possible in this instance that the detailed design of the bypass can be altered to avoid individual trees. As such, route corridors which potentially impact on Veteran trees have not been removed from the short list at this stage of the assessment. Both Ancient Woodland and Veteran trees should be viewed as irreplaceable and their loss cannot be mitigated.
- 4.1.4. The Examining Authority is also directed to refuse any application that results in the loss of designated open space, such as the QEII playing fields, unless it can be proven that the use of that land is limited or that the loss can be compensated. It is assumed for this stage of the assessment that compensation can be provided, and it is therefore not an overriding consideration.
- 4.1.5. Although the NPSNN recognises that historic assets, such as Grade II* listed buildings, are irreplaceable, all of the options affect such assets to a similar extent and are therefore not a deciding factor. The River Wye SAC/SSSI is also affected by every option.
- 4.1.6. Other policies relating to topics such as landscape impact, flood risk and local designations, encourage consideration of these aspects and mitigation of adverse impacts. However, the Examining Authority is not directed to refuse an application on the basis of these policies.

SOUTHERN LINK ROAD CONNECTIVITY

- 4.1.7. Three of the remaining ten possible route corridors require constructing an additional roundabout on the A465 to the east of the proposed junction with the Southern Link Road (SLR), along with local upgrading of the section of A465 between the two roundabouts. This arrangement would add complexity to the traffic movements, introducing an inefficient dog-leg for traffic which wished to travel on both the SLR and the section of bypass north of the A465.
- 4.1.8. This layout would be less attractive for through traffic in using the bypass, and as such reduce the benefits which would accrue from such traffic diverting away from the existing A49 through the city. As reinforced by the results of the Phase 1 Consultation, the extent to which any bypass would remove traffic from the centre of Hereford is a very important consideration. As a consequence, these three route corridors have also not been taken through to the short list.

RESULTS

- 4.1.9. Of the 24 possible route corridors, 14 have been rejected on the basis of considering their impact on Ancient Woodland and a further three have been rejected on the basis of poor connectivity to the SLR. The remaining seven route corridors are to be taken through to the short list for more detailed appraisal and examination.

5 RECOMMENDATIONS FOR A SHORT LIST OF ROUTE CORRIDORS FOR FURTHER ASSESSMENT

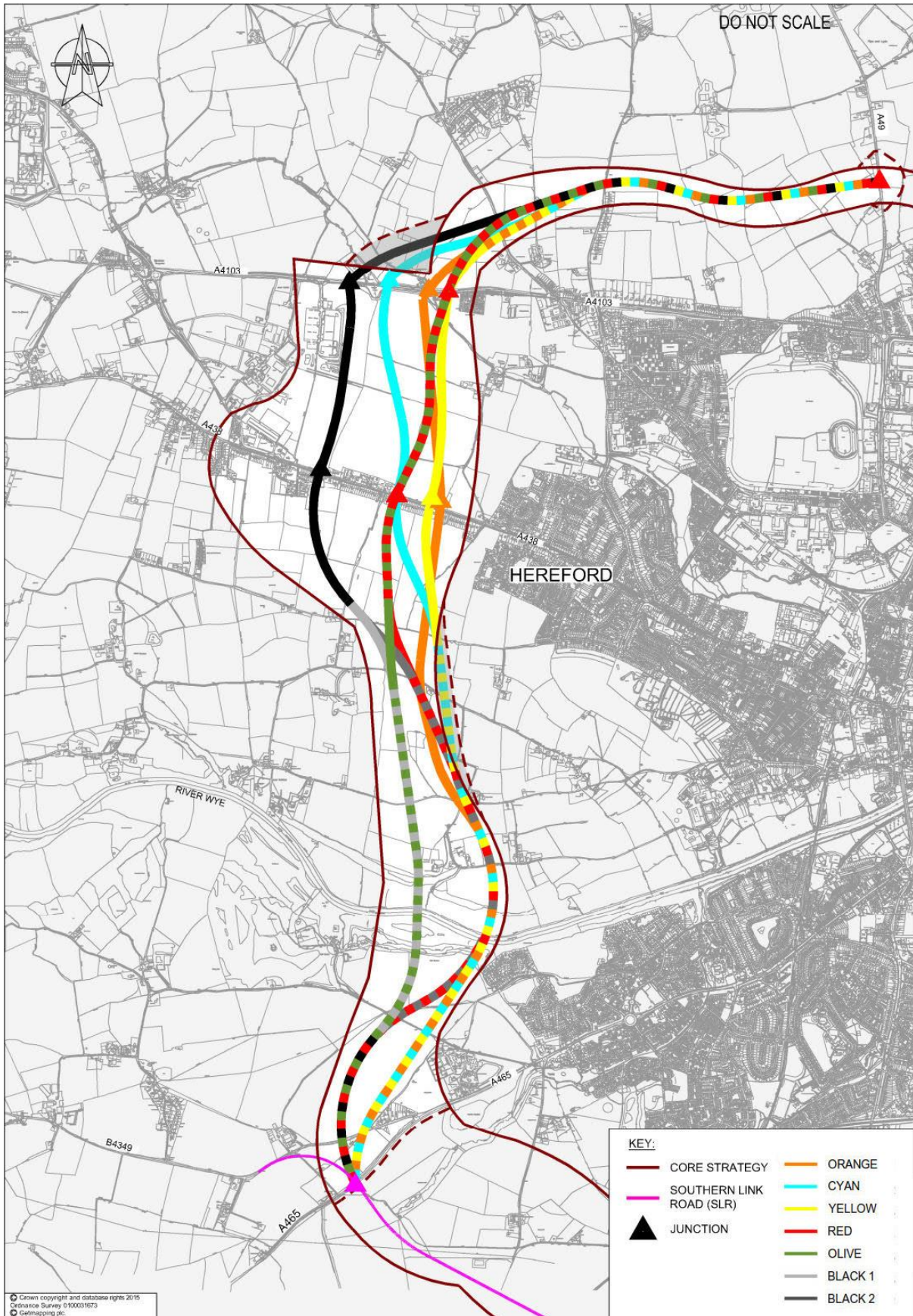
- 5.1.1. Figure 5.1 shows the seven route corridors which are recommended to proceed to the short list, and to be subject to more detailed analysis and appraisal.
- 5.1.2. The seven short listed route corridors are:

Ref. No.	Option	Description
6	Cyan	From southern modified A465(SLR) roundabout with re-aligned A465 arm Cyan option mirrors Orange & Yellow including an eastern Wye viaduct crossing. Shortly after Orange and then Yellow diverge taking a northern path to a new signalised junction crossing of the A438 at SW corner of proposed Three Elms development. The option then takes a NW path to a new A4103 roundabout junction and passes over Yazor Brook. After Yazor Brook Cyan re-joins Orange and shortly after all other options to terminate at new roundabout junction on A49.
10	Orange	From southern modified A465(SLR) roundabout with re-aligned A465 arm Orange option mirrors Cyan & Yellow including an eastern Wye viaduct crossing. Shortly after Cyan & Yellow diverge taking a northern path to a new signalised junction crossing of the A438 mid-southern boundary of the proposed Three Elms development. The option bisects the proposed development to a new A4103 double roundabout junction and Yazor Brook crossing. After the junction Orange re-joins Cyan and shortly after all other options to terminate at new roundabout junction on A49.
13	Red	From southern modified A465(SLR) roundabout Red option mirrors Olive & Black with Olive & Black1 diverging shortly before an eastern Wye viaduct crossing. Later Black2 diverges and Olive re-joins the option which takes a northern path to a new signalised crossing of A438 at SW corner of the proposed Three Elms development. The option follows the development defined corridor passing over Yazor Brook before a new signalised junction of the A4103. After the junction Red re-joins Yellow & Black and shortly after all other options to terminate at new roundabout junction on A49.
21	Yellow	From southern modified A465(SLR) roundabout with re-aligned A465 arm Yellow option mirrors Orange & Cyan including an eastern Wye viaduct crossing. Shortly thereafter first Orange and then Cyan diverge on a northern path to a new signalised crossing of A438 mid-southern boundary of the proposed Three Elms development. The option bisects the proposed development and passes over Yazor Brook before a new roundabout on A4103. After the junction Yellow re-joins Red, Olive & Black and shortly after all other options to terminate at new roundabout junction on A49.
22	Olive	From southern modified A465(SLR) roundabout Olive option mirrors Red & Black with Red & Black2 diverging shortly before a central Wye viaduct crossing. Later Black1 diverges and re-joins Red on a northern path to a new signalised junction of A438 at SW corner of the proposed Three Elms development. The option follows the development defined corridor passing over Yazor Brook before a new signalised junction on the A4103. After the junction Olive re-joins Yellow & Black and shortly after all other options to terminate at new roundabout junction on A49.
23	Black1	From southern modified A465(SLR) roundabout Black1 mirrors Red, Olive & Black2 with Red & Black2 diverging shortly before a central Wye viaduct crossing. Later after Olive diverges and is re-joined by Black2 the option takes a NW path to a new roundabout on A438 east of Wyevale garden centre. The option then passes east of Hereford livestock market to a new roundabout on A4103 and crosses over Yazor Brook. After Yazor Brook Black1 re-joins Red, Yellow & Olive routes and shortly after all other options to terminate at new roundabout junction on A49.

24	Black2	From southern modified A465(SLR) roundabout Black2 mirrors Red, Olive & Black1 with Olive & Black1 diverging shortly before an eastern Wye viaduct crossing. Later Red diverges and Black1 re-joins to take a NW path to a new roundabout on A438 east of Wyevale garden centre. The option then passes east of Hereford livestock market to a new roundabout on A4103 and crosses over Yazor Brook. After Yazor Brook Black2 re-joins Red, Yellow & Olive routes and shortly after all other options to terminate at new roundabout junction on A49.
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- 5.1.3. The short list corridor options are all connected and start at the proposed SLR roundabout on A465. It is proposed to accommodate the bypass at the SLR junction by modification to a 5-arm oval circulatory (roundabout) with the added rotation of Cyan, Orange and Yellow requiring additional A465 re-alignment.
- 5.1.4. There are effectively three possible routes through Belmont Park and two Wye viaduct crossings, the western bisecting QEII fields and passing immediately west of Warham House, and the eastern passing immediately east of Rough Coppice. The western and eastern paths continue in the central Breinton area with the eastern side options have varying impact on the Warham Farm buildings.
- 5.1.5. As the corridors progress north, the options fan out to effectively three crossing points on A438 and four crossing points on A4103, and between the junctions Orange and Yellow effectively bisect the proposed Three Elms development site. After the A4103 junction and Yazor Brook crossing the options rapidly merge to a single easterly path to the terminal A49 roundabout.
- 5.1.6. It is evident from Appendix B that the impact of the seven short listed route corridors varies depending on their respective alignment. In summary:
- Olive and Black1 generally have a lesser impact on the River Wye corridor
 - Black1 has the largest impact on the QEII playing fields
 - Orange has the largest impact on the Three Elms development
 - Black1 and Black2 require the largest number of houses to be demolished
 - All have a large adverse impact on Belmont Abbey and Belmont Lodge
 - All have the same potential impact on Veteran Trees
- 5.1.7. However, all seven route corridors are feasible and none have an overriding reason to be rejected at this stage. All merit more detailed appraisal in the next stage of the project.
- 5.1.8. The future work will identify the merits and challenges of each route corridor in more detail, seeking ways to maximise the benefits and mitigate any adverse impacts. This will ultimately lead to the identification of a preferred route for the bypass, which will be an important component of the Hereford Transport Package.

Figure 5.1 Route Corridors (Short List)



Appendix A

ASSESSMENT CRITERIA

ASSESSMENT CRITERIA

Note – all criteria are scored within a range of 1-5 to ensure comparability of scoring. The use of this range varies between criteria to reflect the characteristics of the individual criterion.

Score	Range	Southern Link Road Connectivity
1	2nd A465 r/b	2nd r/b and congested A465 on-line between likely to incur significant junction delay
2		
3	Acute SLR r/b geometry	Extensive re-engineering/re-positioning of SLR r/b to accommodate HBP
4		
5	Normal SLR r/b geometry	Limited re-engineering (circle to oval) of SLR r/b to accommodate HBP

This criterion is concerned with making good use of existing or planned infrastructure and minimising potential costs to the scheme through having to re-engineer connections to the planned SLR. The higher the score the better the corridors perform.

Score	Range	Scheme Length
1	>9.0km	Higher capital cost & travel distance
2	8.6<9.0km	
3	8.1<8.6km	Median Impact on Cost
4	7.9<8.1km	
5	<7.9km	Lower capital cost & travel distance

The rationale behind assessing each bypass corridor against scheme length is linked to overall costs of the scheme and journey time benefits which translate into value for money. In this instance the shorter the route the more preferable the score.

Score	Range	Scheme Cost
1	>£146m	Higher junction cost/delay/connectivity
2	£141m - £146m	
3	£135m - £140m	Median Impact on cost/delay/connectivity
4	£129m - £134m	
5	<£129m	Lower junction cost/delay/connectivity

This is a standard WebTAG criteria and should be intrinsic to decision making around which routes are included in the short list.

Score	Range	Homes Demolition
1	>6	High impact
2	6	
3	5	Median impact
4	4	
5	3	Lower impact

The impact on peoples' homes and the degree to which this may influence scheme costs has been identified as important to recording the impact on 'people'. This will be of particular relevance to consultation and stakeholder engagement. It is important to note that in this instance only homes that will sit within the corridor itself, and may therefore have a direct impact, have been considered.

Score	Title	Bridge Length Major Structure
1	Long Wye (+55m Yazor)	More Cost, Larger Impact
2	Long Wye +	
3	Long Wye (365m Green)	Median Cost, Median Impact
4	Short Wye +	Acceptable Cost, Acceptable Impact
5	Short Wye (280m Red)	Best Cost, Best Structure, Optimum Bridge

This criterion is again linked to scheme costs where the principle underpinning this is that the optimum structures will cost less than alternatives and have a lesser impact in terms of visual impact and environment (discussed later in this section).

Score	Title	Grade II Listed Structures
1	Large Adverse	As defined in Table 8: Historic Environment – Definitions of Assessment Scores in WebTAG Unit A3 : Environmental Impact Appraisal.
2		
3	Moderate Adverse	
4	Slight Adverse	
5	Neutral	

There are a number of Grade II listed structures within the study area. In accordance with DMRB HA 208/07 they are a Medium Value Historic Building and all Options pass within the setting of Grade II listed structures.

Designated heritage assets are subject to specific policies in the National Planning Policy Framework (NPPF) that require (paragraphs 132 and 139):

- that substantial harm (direct or by change in the setting) to or total loss of Grade II listed buildings ... is expected to be 'exceptional'

The NPSNN also states that the SoS should “give great weight to the asset’s conservation. The more important the asset, the greater the weight should be. Once lost, heritage assets cannot be replaced and their loss has a cultural, environmental, economic and social impact.” Heritage assets should be viewed as irreplaceable (paragraph 5.131).

This criterion qualitatively appraises the impact of the route options on Grade II listed structures and their settings located throughout the study area. This excludes Belmont Abbey and Belmont Lodge (both Grade II*) which are appraised separately (see below).

Score	Title	Setting of Belmont Abbey (Grade II*) and listed structures in curtilage
1	Large Adverse	As defined in Table 8: Historic Environment – Definitions of Assessment Scores in WebTAG Unit A3 : Environmental Impact Appraisal.
2		
3	Moderate Adverse	
4	Slight Adverse	
5	Neutral	

Belmont Abbey is a Grade II* listed building with additional listed structures located within its curtilage. In accordance with DMRB HA 208/07 it is a High Value Historic Building. All route options pass within its setting. Paragraphs 132 and 139 of the NPPF, and Paragraph 5.131 of the NPSNN also apply to this asset and greater weight should be given to Belmont Abbey due to its higher value.

This criterion qualitatively appraises the impact of route options on the setting of Belmont Abbey and the listed structures within it curtilage.

Score	Title	Setting of Belmont Lodge (Grade II*) and listed structures in curtilage
1	Large Adverse	As defined in Table 8: Historic Environment – Definitions of Assessment Scores in WebTAG Unit A3: Environmental Impact Appraisal.
2		
3	Moderate Adverse	
4	Slight Adverse	
5	Neutral	

Belmont Lodge is a Grade II* listed building with additional listed structures located within its curtilage. In accordance with DMRB HA 208/07 it is a High Value Historic Building. All route options pass within its setting. Paragraphs 132 and 139 of the NPPF, and Paragraph 5.131 of the NPSNN also apply to this asset and greater weight should be given to Belmont Abbey due to its higher value.

This criterion qualitatively appraises the impact of route options on the setting of Belmont Lodge and the listed structures within it curtilage.

Score	Title	Belmont Lodge Unregistered Park and Garden
1	Large Adverse	As defined in Table 8: Historic Environment – Definitions of Assessment Scores in WebTAG Unit A3: Environmental Impact Appraisal.
2		
3	Moderate Adverse	
4	Slight Adverse	
5	Neutral	

Belmont Lodge Park and Garden is of local importance but unregistered. It is a consideration in planning policy terms along with understanding the impact on the historic environment (a WebTAG Environmental Impact Appraisal topic).

The NPSNN states that the SoS “should also consider the impacts on other non-designated heritage assets (as identified either through the development plan process by local authorities, including ‘local listing’, or through the nationally significant infrastructure project examination and decision making process) on the basis of clear evidence that the assets have a significance that merit consideration in that process, even though those assets are of lesser value than designated heritage assets.”

This criterion qualitatively appraises the impact of route options on Belmont Lodge Unregistered Park and Garden.

Score	Title	Green Lane Ancient Woodland
1	Large Adverse	Direct impact / loss of Ancient Woodland
2		
3		
4		
5	Neutral	No Direct impact / loss of Ancient Woodland

In accordance with Interim Advice Note 130/10, Ancient Woodlands are of UK or National Value.

The NPSNN states “The Secretary of State should not grant development consent for any development that would result in the loss or deterioration of irreplaceable habitats including ancient woodland,... unless the national need for and benefits of development, in that location, clearly outweigh the loss” (Paragraph 5.32). Ancient woodland should therefore be viewed as irreplaceable and its loss cannot be mitigated.

This criterion qualitatively appraises the impact of route options on Ancient Woodlands with a Large Adverse score assigned for any route option that passes through an Ancient Woodland and Neutral score assigned to any route option that avoids an Ancient Woodland.

Score	Title	Veteran Trees
1	Large Adverse	Direct impact / loss of Veteran Trees
2		
3		
4		
5	Neutral	No Direct impact / loss of Veteran Trees

The NPSNN states “The Secretary of State should not grant development consent for any development that would result in the loss or deterioration of irreplaceable habitats including...the loss of aged or veteran trees found outside ancient woodland, unless the national need for and benefits of development, in that location, clearly outweigh the loss” (Paragraph 5.32). Veteran trees should therefore be viewed as irreplaceable and their loss cannot be mitigated.

This criterion qualitatively appraises the impact of route options on Veteran Trees with a Large Adverse score assigned for any route option that results in Veteran Trees being lost and Neutral score assigned to any route option that avoids Veteran Trees.

Score	Title	Landscape and Visual impact on to the north of River Wye
1	Large Adverse	As defined in Table 4: Landscape – Definitions of Assessment Scores in WebTAG Unit A3: Environmental Impact Appraisal
2		
3	Moderate Adverse	
4	Slight Adverse	
5	Neutral	

The NPSNN states “in taking decisions, the Secretary of State should consider whether the project has been designed carefully, taking account of environmental effects on the landscape and siting, operational and other relevant constraints, to avoid adverse effects on landscape or to minimise harm to the landscape, including by reasonable mitigation” (Paragraph 5.157).

The study area passes through four different Landscape Character Types (LCT) as defined in the Landscape Character Assessment for Herefordshire (2004 updated in 2009). This allows the landscape and visual impact of each route option to be appraised at four different locations along the length of the study area. This criterion appraises the impact of each route option on LCT 7.10 which is located to the north of the River Wye.

Score	Title	Landscape and visual impact on to the south of River Wye
1	Large Adverse	As defined in Table 4: Landscape – Definitions of Assessment Scores in WebTAG Unit A3: Environmental Impact Appraisal
2		
3	Moderate Adverse	
4	Slight Adverse	
5	Neutral	

The NPSNN states “in taking decisions, the Secretary of State should consider whether the project has been designed carefully, taking account of environmental effects on the landscape and siting, operational and other relevant constraints, to avoid adverse effects on landscape or to minimise harm to the landscape, including by reasonable mitigation” (Paragraph 5.157).

The study area passes through four different Landscape Character Types (LCT) as defined in the Landscape Character Assessment for Herefordshire (2004 updated in 2009). This allows the landscape and visual impact of each Option to be appraised at four different locations along the length of the study area. This criterion appraises the impact of each Option on LCT 7.18 which is located to the south of the River Wye.

Score	Title	SINCs
1		
2	5 SINCs directly affected	5 SINCs directly affected
3	4 SINCs directly affected	4 SINCs directly affected
4	3 SINCs directly affected	3 SINCs directly affected
5		

The NPSNN states “Sites of regional and local biodiversity and geological interest (which include Local Geological Sites, Local Nature Reserves and Local Wildlife Sites and Nature Improvement Areas) have a fundamental role to play in meeting overall national biodiversity targets, in contributing to the quality of life and the well-being of the community, and in supporting research and education. The Secretary of State should give due consideration to such regional or local designations. However, given the need for new infrastructure, these designations should not be used in themselves to refuse development consent” (Paragraph 5.31). Therefore, SINCs have a lesser value than nationally designated sites, but should still be considered.

In accordance with Interim Advice Note 130/10 SINC's are of County or Unitary Authority Area Value. It is a consideration in planning policy terms along with understanding the impact on the natural environment (a WebTAG Environmental Impact Appraisal topic). All route options directly affect SINC's within the study area. This criterion considers the number of SINC's directly affected by each route option.

Score	Title	River Wye SSSI
1	Large Adverse	As defined in Tables 10, 11 & 12 in WebTAG Unit A3 : Environmental Impact Appraisal
2		
3	Moderate Adverse	
4	Slight Adverse	
5	Neutral	

In accordance with Interim Advice Note 130/10, SSSI are of UK or National Value.

The NPSNN states "Where a proposed development on land within or outside a SSSI is likely to have an adverse effect on an SSSI (either individually or in combination with other developments), development consent should not normally be granted. Where an adverse effect on the site's notified special interest features is likely, an exception should be made only where the benefits of the development at this site clearly outweigh both the impacts that it is likely to have on the features of the site that make it of special scientific interest, and any broader impacts on the national network of SSSIs" (Paragraph 5.28).

All route options will cross over the River Wye SSSI and it has been assumed that no piers will be located in the river. Therefore no direct impacts are anticipated on the SSSI but there remains potential for indirect impacts

Score	Title	River Wye SAC
1	Large Adverse	As defined in Tables 10, 11 & 12 in WebTAG Unit A3: Environmental Impact Appraisal
2		
3	Moderate Adverse	
4	Slight Adverse	
5	Neutral	

In accordance with Interim Advice Note 130/10 SAC's are of International or European Value.

The NPSNN states "As a general principle, and subject to the specific policies below, development should avoid significant harm to biodiversity and geological conservation interests, including through mitigation and consideration of reasonable alternatives" (Paragraph 5.25). Paragraph 5.17 emphasises that international and European sites are the most important for biodiversity and the Habitats Regulations provides statutory protection.

All route options will cross over the River Wye SAC and it has been assumed that no piers will be located in the river. Therefore no direct impacts are anticipated on the SAC but there remains potential for indirect impacts.

Score	Title	Landscape and visual impact on River Wye Corridor
1	Large Adverse	As defined in Table 4: Landscape – Definitions of Assessment Scores in WebTAG Unit A3 : Environmental Impact Appraisal
2		
3	Moderate Adverse	
4	Slight Adverse	
5	Neutral	

The NPSNN states “in taking decisions, the Secretary of State should consider whether the project has been designed carefully, taking account of environmental effects on the landscape and siting, operational and other relevant constraints, to avoid adverse effects on landscape or to minimise harm to the landscape, including by reasonable mitigation” (Paragraph 5.157).

The study area passes through four different Landscape Character Types (LCT) as defined in the Landscape Character Assessment for Herefordshire (2004 updated in 2009). This allows the landscape and visual impact of each route option to be appraised at four different locations along the length of the study area. This criterion appraises the impact of each route option on LCT 7.14 which is located along the River Wye corridor.

Score	Title	River Wye Flood Plain
1	Large Adverse	
2		
3	Moderate Adverse	Longer structure through flood plain (approx. 300m)
4	Slight Adverse	Shorter structure through flood plain (approx 200m)
5	Neutral	

In accordance with DMRB HD45/09 Transport infrastructure in the functional floodplain must be designed and constructed to:

- remain operational and safe for users in times of flood;
- result in no net loss of floodplain storage;
- not impede water flows; and
- not increase flood risk elsewhere.

The NPPF (paragraphs 100 to 104) makes clear that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. But where development is necessary, it should be made safe without increasing flood risk elsewhere. The guidance supporting the NPPF explains that essential transport infrastructure (including mass evacuation routes), which has to cross the area at risk, is permissible in areas of high flood risk, subject to the requirements of the Exception Test (NPSNN, Paragraph 5.91).

The NPSNN states “When determining an application the Secretary of State should be satisfied that flood risk will not be increased elsewhere and only consider development appropriate in areas at risk of flooding where..., it can be demonstrated that:

- within the site, the most vulnerable development is located in areas of lowest flood risk unless there are overriding reasons to prefer a different location; and
- development is appropriately flood resilient and resistant, including safe access and escape routes where required, and that any residual risk can be safely managed, including by emergency planning; and priority is given to the use of sustainable drainage systems.” (Paragraph 5.99)

All route corridors will cross the functional floodplain of the River Wye. This criterion qualitatively appraises the impact of corridors based on the length of the potential structure through the River Wye floodplain. The longer

the potential structure the greater the potential impact and / or infrastructure requirements to meet the requirements listed above.

Score	Title	Wye Coppice / Rough Coppice Ancient Woodland
1	Large Adverse	Direct impact / loss of Ancient Woodland
2		
3	Moderate Adverse	
4	Slight Adverse	
5	Neutral	No Direct impact / loss of Ancient Woodland

In accordance with Interim Advice Note 130/10, Ancient Woodlands are of UK or National Value.

The NPSNN states “The Secretary of State should not grant development consent for any development that would result in the loss or deterioration of irreplaceable habitats including ancient woodland,... unless the national need for and benefits of development, in that location, clearly outweigh the loss” (Paragraph 5.32). Ancient woodland should therefore be viewed as irreplaceable and its loss cannot be mitigated. This criterion qualitatively appraises the impact of route options on Ancient Woodlands with a Large Adverse score assigned for any route option that passes through an Ancient Woodland and Neutral score assigned to any route option that avoids an Ancient Woodland.

Score	Title	Landscape and visual impact in central and northern part of study area
1	Large Adverse	As defined in Table 4: Landscape – Definitions of Assessment Scores in WebTAG Unit A3: Environmental Impact Appraisal
2		
3	Moderate Adverse	
4	Slight Adverse	
5	Neutral	

The NPSNN states “in taking decisions, the Secretary of State should consider whether the project has been designed carefully, taking account of environmental effects on the landscape and siting, operational and other relevant constraints, to avoid adverse effects on landscape or to minimise harm to the landscape, including by reasonable mitigation” (Paragraph 5.157).

The study area passes through four different Landscape Character Types (LCT) as defined in the Landscape Character Assessment for Herefordshire (2004 updated in 2009). This allows the landscape and visual impact of each Option to be appraised at four different locations along the length of the study area. This criterion appraises the impact of each Option on LCT 7.21 which is located in the central and northern part of the study area.

Score	Title	Agricultural Land Take
1		
2		82 to 93 Fields / Land Parcels
3		70 to 81 Fields / Land Parcels
4		58 to 69 Fields / Land Parcels
5		

The NPSNN states “Where significant development of agricultural land is demonstrated to be necessary, applicants should seek to use areas of poorer quality land in preference to that of a higher quality” (Paragraph 5.168).

Best and most versatile land is defined as Grade 1, 2 and 3a. The Hereford Agricultural Land Classification Map (Herefordshire Council, 2015) classifies the agricultural land within the study area as largely Grade 2 with some areas of Grade 1 (Lower Breinton area) and Grade 3 (River Wye floodplain and northern part of the study area on the approaches to the A49). All route options will pass through the same areas of best and most versatile land and therefore there are limited differences between the route options. Therefore, this criterion qualitatively appraises the number of field/land parcels affected by each route option with the least number of field/land parcels affected considered to have a lower economic impact.

Score	Title	Warham House / Burghill Hospital Unregistered Parks and Gardens
1	Large Adverse	As defined in Table 8: Historic Environment – Definitions of Assessment Scores in WebTAG Unit A3: Environmental Impact Appraisal.
2		
3	Moderate Adverse	
4	Slight Adverse	
5	Neutral	

The NPSNN states that the SoS “should also consider the impacts on other non-designated heritage assets (as identified either through the development plan process by local authorities, including ‘local listing’, or through the nationally significant infrastructure project examination and decision making process) on the basis of clear evidence that the assets have a significance that merit consideration in that process, even though those assets are of lesser value than designated heritage assets.”

Warham House/Burghill Hospital Park and Gardens are of local importance but unregistered. It is a consideration in planning policy terms along with understanding the impact on the historic environment (a WebTAG Environmental Impact Appraisal topic). This criterion qualitatively appraises the impact of route options on Warham House/Burghill Hospital Unregistered Park and Gardens.

Score	Title	Orchards
1	Large Adverse	As defined in Table 4 : Landscape – Definitions of Assessment Scores in WebTAG Unit A3 : Environmental Impact Appraisal.
2		
3	Moderate Adverse	
4	Slight Adverse	
5	Neutral	

Although Herefordshire’s Orchards are not designated at a national or local level, they carry cultural, historical and biodiversity value and are considered to be of regional value. This is was highlighted during the Phase I public consultation from feedback received. Avoidance would therefore be preferable where possible.

Score	Title	Queen Elizabeth II Playing Fields
1	Large Adverse	Direct impact on QEII Playing Fields
2		
3	Moderate Adverse	
4	Slight Adverse	
5	Neutral	No Impact on QEII Playing Fields

The Queen Elizabeth II Playing Fields is considered to be an area of designated public open space. The NPSNN states “Existing open space, sports and recreational buildings and land should not be developed unless the land is surplus to requirements or the loss would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location” (Paragraph 5.166). It also states “The Secretary of State should not grant consent for development on existing open space, sports and recreational buildings and land, including playing fields, unless an assessment has been undertaken either by the local authority or independently, which has shown the open space or the buildings and land to be surplus to requirements, or the Secretary of State determines that the benefits of the project (including need) outweigh the potential loss of such facilities, taking into account any positive proposals made by the applicant to provide new, improved or compensatory land or facilities.” Therefore, the loss of the Queen Elizabeth II playing fields can only be considered if the land is not required or well used, and if the loss can be compensated for.

This criterion qualitatively appraises the impact of route options on Queen Elizabeth II Playing Fields with a Large Adverse score assigned for any route option that passes through the playing fields and Neutral score assigned to any route option that avoids the playing fields.

Score	Title	Kings Acre Road Business Take
1	Very Large Adverse	Impact Wyevale GC/Car lot/Caravan park/Livestock Market, poor junction geometry
2	Large Adverse	Impact Wyevale GC/Car lot/Caravan park, poor junction geometry
3	Moderate Adverse	Wyevale GC/Car lot/Caravan park
4	Slight Adverse	No proximity
5	No Impact	No proximity

Paragraph 70 of the NPPF states that planning decisions should “guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community’s ability to meet its day-to-day needs”. This includes local retail services and community facilities. A key consideration in determining the route will be the impact on existing businesses. It is anticipated that through the development of route corridors, all attempts should be made to avoid impact on businesses where possible.

Score	Title	Kings Acre Road Noise Action Planning Area
1	Large Adverse	Large increase in noise
2		
3	Moderate Adverse	Moderate increase in noise
4	Slight Adverse	Slight increase in noise
5	Neutral	No Impact

A Noise Action Planning Area is a local designation based on the Noise Important Areas mapped by DEFRA, which identify areas where properties are significantly affected by noise and where improvements should be

sought. It is also important to ensure that the noise levels in these areas do not increase. This criterion is a WEBTAG criterion and has been assessed qualitatively at this stage of the project.

Score	Title	Impact on Three Elms
0.99	Very Large Adverse	Crosses residential & industrial allocation +new junctions
1	Large Adverse	Crosses residential allocation +new junction
2		
3	Moderate Adverse	Uses defined corridor/junction(s)
4	Slight Adverse	Limited proximity (<0.2km)
5	No Impact	No proximity

Three Elms trading estate is a key employment zone within the area. It is envisaged that any bypass alignment will not have an adverse impact upon the location that may affect its operation, employees accessing the site, or deliveries leaving the site.

Score	Title	Yazor Brook Flood Plain
1	Large Adverse	
2		
3	Moderate Adverse	Longer structure within flood plain (approx. 190m)
4	Slight Adverse	Shorter structure within flood plain (approx 110m)
5	Neutral	

In accordance with DMRB HD45/09 Transport infrastructure in the functional floodplain must be designed and constructed to:

- remain operational and safe for users in times of flood;
- result in no net loss of floodplain storage;
- not impede water flows; and
- not increase flood risk elsewhere.

The NPPF (paragraphs 100 to 104) makes clear that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. But where development is necessary, it should be made safe without increasing flood risk elsewhere. The guidance supporting the NPPF explains that essential transport infrastructure (including mass evacuation routes), which has to cross the area at risk, is permissible in areas of high flood risk, subject to the requirements of the Exception Test (NPSNN, Paragraph 5.91).

The NPSNN states “When determining an application the Secretary of State should be satisfied that flood risk will not be increased elsewhere and only consider development appropriate in areas at risk of flooding where..., it can be demonstrated that:

- within the site, the most vulnerable development is located in areas of lowest flood risk unless there are overriding reasons to prefer a different location; and
- development is appropriately flood resilient and resistant, including safe access and escape routes where required, and that any residual risk can be safely managed, including by emergency planning; and priority is given to the use of sustainable drainage systems.” (Paragraph 5.99)

All route corridors will cross the functional floodplain of Yazor Brook. This criterion qualitatively appraises the impact of route corridor based on the length of the structure through the Yazor Brook floodplain. A longer crossing could presumably reduce the potential impact as it would result in less of the structural elements actually being in the flood plain.

Score	Title	Noise impact on Residential Estate (Dorchester Way) south of River Wye
1	Large Adverse	Option within 300m of the Estate
2		
3	Moderate Adverse	Option beyond 300m of the Estate
4	Slight Adverse	
5	Neutral	

The residential estate (Dorchester Way) contains a large number of noise sensitive receptors in close proximity to the study area. The NPSNN states that the SoS should not grant Development Consent unless satisfied that the project avoids significant adverse (assumed to be moderate or large) effects on health and quality of life from noise (Paragraph 5.195).

The assessment is based upon quantifying the number of noise sensitive receptors within the study area up to 600m. Based on similar highway schemes noise sensitive receptors within 300m are likely to experience a major noise impact (Large adverse), whereas those between 300m and 600m may be exposed to a moderate noise impact (Moderate adverse). It should be noted that the overall impact at receptors will depend on the road traffic noise levels arising from the existing road network.

Appendix B

ASSESSMENT RESULTS

Unique Ref. No.	Name/No.	Description	SLR Connectivity	Scheme Length	Budget Estimate	House Demolition	Setting of Belmont Abbey (Grade II*) and listed structures in curtilage	Setting of Belmont Lodge (Grade II*) and listed structures in curtilage	Belmonth Lodge Unregistered Park and Garden	Green Lane Ancient Woodland	Veteran Trees
1	Black	A465(SLR) - Green - Wye(W) - Green - Black - A435 - Black - Green to A49 (All dual c/way option, no A4103 Jn)	Normal SLR nb geometry	5.1<5.6km	>£146m	>5	Large Adverse	Large Adverse	Moderate Adverse	Neutral	Neutral
2	Blue1	A465(SLR) - Blue(A465 online) - A465(Belmont) - Blue - Green - Wye(W) - Green - A435 - Green - A4103 - Green to A49	2nd A465 nb	5.6<9.0km	£141m - £146m	5	Large Adverse	Large Adverse	Moderate Adverse	Large Adverse	Large Adverse
3	Blue2	A465(SLR) - Blue(A465 online) - A465(Belmont) - Blue - Red - Wye(outer E) - Red - A435 - edge Three Elms - A4103 - Red to A49	2nd A465 nb	7.9<9.1km	<£129m	3	Large Adverse	Large Adverse	Moderate Adverse	Neutral	Large Adverse
4	Brown1	A465(SLR) - Green1 - Wye(W) - Green1 - Brown1 - Red1 - A435 - edge Three Elms - A4103 - Red1 to A49	Normal SLR nb geometry	<7.9km	£129m - £134m	3	Large Adverse	Large Adverse	Moderate Adverse	Neutral	Neutral
5	Brown	A465(SLR) - Green - Wye(W) - Green - Brown - Red - A435 - edge Three Elms - A4103 - Red to A49	Normal SLR nb geometry	<7.9km	£129m - £134m	3	Large Adverse	Large Adverse	Moderate Adverse	Neutral	Neutral
6	Cyan	A465(SLR) - Orange - Wye(outer E) - Orange - Cyan - A435 - Purple - A4103 - Cyan - NC1 - Green to A49	Acute SLR nb geometry	5.1<5.6km	£129m - £134m	3	Large Adverse	Large Adverse	Moderate Adverse	Neutral	Large Adverse
7	Green1	A465(SLR) - Green - Green1 - Wye(outer W) - Green1 - Green - A435/A50 - mid-Wyevale - A4103 - Green to A49 (orchard conflict)	Normal SLR nb geometry	5.6<9.0km	>£146m	5	Large Adverse	Large Adverse	Moderate Adverse	Large Adverse	Neutral
8	Green2	A465(SLR) - Green - Wye(W) - Green - Green2 - Green - A435/A50 - mid-Wyevale - A4103 - Green to A49	Normal SLR nb geometry	5.6<9.0km	>£146m	5	Large Adverse	Large Adverse	Moderate Adverse	Large Adverse	Neutral
9	Green	A465(SLR) - Green - Wye(W) - Green - A435/A50 - mid-Wyevale - A4103 - Green to A49 (imp corner Upper Hill Farm)	Normal SLR nb geometry	5.6<9.0km	>£146m	5	Large Adverse	Large Adverse	Moderate Adverse	Large Adverse	Neutral
10	Orange	A465(SLR) - Orange - Wye(outer W) - Orange - A435 - mid Three Elms - A4103 - Green to A49	Acute SLR nb geometry	7.9<9.1km	<£129m	4	Large Adverse	Large Adverse	Moderate Adverse	Neutral	Large Adverse
11	Purple	A465(SLR) - Orange - Wye(centre) - Brown - Red - A435 - Purple - A4103 - Purple - Green to A49	Acute SLR nb geometry	7.9<9.1km	£135m - £140m	3	Large Adverse	Large Adverse	Moderate Adverse	Neutral	Large Adverse
12	Red1	A465(SLR) - Red1 - Wye(E) - Red1 - Red - A435 - edge Three Elms - A4103 - Red - Green to A49	Normal SLR nb geometry	7.9<9.1km	<£129m	3	Large Adverse	Large Adverse	Moderate Adverse	Neutral	Neutral
13	Red	A465(SLR) - Red - Wye(outer E) - Red - A435 - edge Three Elms - A4103 - Red - Green to A49	Normal SLR nb geometry	7.9<9.1km	<£129m	3	Large Adverse	Large Adverse	Moderate Adverse	Neutral	Large Adverse
14	Sand	A465(SLR) - Green - Wye(W) - Green - A435/A50 - mid-Wyevale - A4103 - Sand(A4103 online) - Sand - Green to A49 (avoids Yazov Ponds)	Normal SLR nb geometry	5.6<9.0km	>£146m	5	Large Adverse	Large Adverse	Moderate Adverse	Large Adverse	Large Adverse
15	WL1	A465(SLR) - Blue(A465 online) - WL1 - Wye(outer E) - WL1 - A435 - mid Three Elms - A4103 - NC1 - Green to A49	2nd A465 nb	7.9<9.1km	<£129m	3	Large Adverse	Large Adverse	Moderate Adverse	Neutral	Neutral
16	WL2	A465(SLR) - Blue(A465 online) - WL2 - Wye(outer E) - WL2 - A435/A50 - mid Wyevale/Livesock - A4103 - WL2(A4103 online) - NC2 - Green to A49	2nd A465 nb	>9.0km	<£129m	5	Large Adverse	Large Adverse	Moderate Adverse	Neutral	Large Adverse
17	WL3	A465(SLR) - Blue(A465 online) - A465(Belmont) - WL3 - Wye(W) - WL3 - A435 - mid-Three Elms - A4103 - NC1 to A49	2nd A465 nb	<7.9km	£129m - £134m	4	Large Adverse	Large Adverse	Moderate Adverse	Neutral	Large Adverse
18	WL4	A465(SLR) - WL4 - Wye(W) - WL4 - A435 - mid-Three Elms - A4103 - NC1 to A49	Normal SLR nb geometry	<7.9km	£135m - £140m	3	Large Adverse	Large Adverse	Moderate Adverse	Neutral	Large Adverse
19	WL5	A465(SLR) - Blue(A465 online) - A465(Belmont) - WL5 - Wye(W) - WL5 - A435/A50 - mid Wyevale/Livesock - A4103 - WL5(A4103 online) - NC2 to A49	2nd A465 nb	>9.0km	£135m - £140m	3	Large Adverse	Large Adverse	Moderate Adverse	Neutral	Large Adverse
20	WL6	A465(SLR) - WL6 - Wye(W) - WL6 - A435/A50 - mid Wyevale/Livesock - A4103 - WL6(A4103 online) - NC2 to A49	Normal SLR nb geometry	>9.0km	£129m - £134m	4	Large Adverse	Large Adverse	Moderate Adverse	Neutral	Large Adverse
21	Yellow	A465(SLR) - Orange - Wye(outer W) - Orange - Cyan - Yellow - A435 - mid Three Elms - A4103 - Yellow - NC1 - Green to A49	Acute SLR nb geometry	<7.9km	<£129m	5	Large Adverse	Large Adverse	Moderate Adverse	Neutral	Large Adverse
22	Olive	A465(SLR) - Red - Olive - Wye(centre) - Olive - Red - A435 - edge Three Elms - A4103 - Red to A49	Normal SLR nb geometry	<7.9km	<£129m	3	Large Adverse	Large Adverse	Moderate Adverse	Neutral	Large Adverse
23	Black1	A465(SLR) - Red - Olive - Wye(centre) - Olive - Black - A435 - Black - A4103 - Black - Red to A49	Normal SLR nb geometry	5.1<5.6km	£129m - £134m	4	Large Adverse	Large Adverse	Moderate Adverse	Neutral	Large Adverse
24	Black2	A465(SLR) - Red - Wye(outer E) - Red - Black - A435 - Black - A4103 - Black - Red to A49	Normal SLR nb geometry	5.1<5.6km	£135m - £140m	3	Large Adverse	Large Adverse	Moderate Adverse	Neutral	Large Adverse

Unique Ref. No.	Name/No.	Description	L&V Impact on the north of River Wye (LCT 7.10)	L&V Impact on the south of River Wye (LCT 7.18)	L&V Impact on the River Wye Corridor (LCT 7.14)	Wye Coppice / Rough Coppice Ancient Woodland	L&V Impact in central and northern part of study area (LCT 7.21)	Agricultural Landtake	QE Playing Fields	Impact on Three Elms
1	Black	A465(SLR) - Green - Wye(W) - Green - Black - A435 - Black - Green to A49 (All dual c/way option, no A4103 Jn)	Moderate Adverse	Slight Adverse	Moderate Adverse	Large Adverse	Moderate Adverse	70 to 51 Fields / Land Parcels	Large Adverse	No Impact
2	Blue1	A465(SLR) - Blue(A465 online) - A465(Belmont) - Blue - Green - Wye(W) - Green - A435 - Green - A4103 - Green to A49	Moderate Adverse	Moderate Adverse	Moderate Adverse	Large Adverse	Large Adverse	52 to 93 Fields / Land Parcels	Large Adverse	No Impact
3	Blue2	A465(SLR) - Blue(A465 online) - A465(Belmont) - Blue - Red - Wye(outer E) - Red - A435 - edge Three Elms - A4103 - Red to A49	Moderate Adverse	Moderate Adverse	Large Adverse	Neutral	Slight Adverse	55 to 69 Fields / Land Parcels	Neutral	Moderate Adverse
4	Brown1	A465(SLR) - Green1 - Wye(W) - Green1 - Brown1 - Red1 - A435 - edge Three Elms - A4103 - Red1 to A49	Moderate Adverse	Slight Adverse	Moderate Adverse	Large Adverse	Slight Adverse	55 to 69 Fields / Land Parcels	Large Adverse	Slight Adverse
5	Brown	A465(SLR) - Green - Wye(W) - Green - Brown - Red - A435 - edge Three Elms - A4103 - Red to A49	Moderate Adverse	Slight Adverse	Moderate Adverse	Large Adverse	Slight Adverse	55 to 69 Fields / Land Parcels	Large Adverse	Moderate Adverse
6	Cyan	A465(SLR) - Orange - Wye(outer E) - Orange - Cyan - A435 - Purple - A4103 - Cyan - NC1 - Green to A49	Moderate Adverse	Moderate Adverse	Large Adverse	Neutral	Slight Adverse	70 to 51 Fields / Land Parcels	Neutral	Moderate Adverse
7	Green1	A465(SLR) - Green - Green1 - Wye(outer W) - Green1 - Green - A435/A50 - mid-Wyevale - A4103 - Green to A49 (orchard conflict)	Moderate Adverse	Slight Adverse	Moderate Adverse	Large Adverse	Large Adverse	52 to 93 Fields / Land Parcels	Large Adverse	No Impact
8	Green2	A465(SLR) - Green - Wye(W) - Green - Green2 - Green - A435/A50 - mid-Wyevale - A4103 - Green to A49	Large Adverse	Slight Adverse	Moderate Adverse	Large Adverse	Large Adverse	52 to 93 Fields / Land Parcels	Large Adverse	No Impact
9	Green	A465(SLR) - Green - Wye(W) - Green - A435/A50 - mid-Wyevale - A4103 - Green to A49 (imp corner Upper Hill Farm)	Moderate Adverse	Slight Adverse	Moderate Adverse	Large Adverse	Large Adverse	52 to 93 Fields / Land Parcels	Large Adverse	No Impact
10	Orange	A465(SLR) - Orange - Wye(outer W) - Orange - A435 - mid Three Elms - A4103 - Green to A49	Moderate Adverse	Slight Adverse	Large Adverse	Neutral	Slight Adverse	55 to 69 Fields / Land Parcels	Neutral	Very Large Adverse
11	Purple	A465(SLR) - Orange - Wye(centre) - Brown - Red - A435 - Purple - A4103 - Purple - Green to A49	Moderate Adverse	Moderate Adverse	Moderate Adverse	Large Adverse	Moderate Adverse	55 to 69 Fields / Land Parcels	Large Adverse	Slight Adverse
12	Red1	A465(SLR) - Red1 - Wye(E) - Red1 - Red - A435 - edge Three Elms - A4103 - Red - Green to A49	Moderate Adverse	Moderate Adverse	Large Adverse	Large Adverse	Slight Adverse	55 to 69 Fields / Land Parcels	Neutral	Moderate Adverse
13	Red	A465(SLR) - Red - Wye(outer E) - Red - A435 - edge Three Elms - A4103 - Red - Green to A49	Moderate Adverse	Moderate Adverse	Large Adverse	Neutral	Slight Adverse	55 to 69 Fields / Land Parcels	Neutral	Moderate Adverse
14	Sand	A465(SLR) - Green - Wye(W) - Green - A435/A50 - mid-Wyevale - A4103 - Sand(A4103 online) - Sand - Green to A49 (avoids Yazov Ponds)	Large Adverse	Slight Adverse	Moderate Adverse	Large Adverse	Large Adverse	52 to 93 Fields / Land Parcels	Large Adverse	No Impact
15	WL1	A465(SLR) - Blue(A465 online) - WL1 - Wye(outer E) - WL1 - A435 - mid Three Elms - A4103 - NC1 - Green to A49	Moderate Adverse	Slight Adverse	Large Adverse	Neutral	Slight Adverse	55 to 69 Fields / Land Parcels	Neutral	Large Adverse
16	WL2	A465(SLR) - Blue(A465 online) - WL2 - Wye(outer E) - WL2 - A435/A50 - mid Wyevale/Livesock - A4103 - WL2(A4103 online) - NC2 - Green to A49	Moderate Adverse	Slight Adverse	Large Adverse	Neutral	Moderate Adverse	52 to 93 Fields / Land Parcels	Neutral	No Impact
17	WL3	A465(SLR) - Blue(A465 online) - A465(Belmont) - WL3 - Wye(W) - WL3 - A435 - mid-Three Elms - A4103 - NC1 to A49	Moderate Adverse	Moderate Adverse	Moderate Adverse	Large Adverse	Slight Adverse	55 to 69 Fields / Land Parcels	Large Adverse	Large Adverse
18	WL4	A465(SLR) - WL4 - Wye(W) - WL4 - A435 - mid-Three Elms - A4103 - NC1 to A49	Moderate Adverse	Moderate Adverse	Moderate Adverse	Large Adverse	Slight Adverse	55 to 69 Fields / Land Parcels	Large Adverse	Large Adverse
19	WL5	A465(SLR) - Blue(A465 online) - A465(Belmont) - WL5 - Wye(W) - WL5 - A435/A50 - mid Wyevale/Livesock - A4103 - WL5(A4103 online) - NC2 to A49	Moderate Adverse	Moderate Adverse	Moderate Adverse	Large Adverse	Moderate Adverse	70 to 51 Fields / Land Parcels	Large Adverse	No Impact
20	WL6	A465(SLR) - WL6 - Wye(W) - WL6 - A435/A50 - mid Wyevale/Livesock - A4103 - WL6(A4103 online) - NC2 to A49	Moderate Adverse	Moderate Adverse	Moderate Adverse	Large Adverse	Moderate Adverse	52 to 93 Fields / Land Parcels	Large Adverse	No Impact
21	Yellow	A465(SLR) - Orange - Wye(outer W) - Orange - Cyan - Yellow - A435 - mid Three Elms - A4103 - Yellow - NC1 - Green to A49	Moderate Adverse	Moderate Adverse	Large Adverse	Neutral	Slight Adverse	55 to 69 Fields / Land Parcels	Neutral	Large Adverse
22	Olive	A465(SLR) - Red - Olive - Wye(centre) - Olive - Red - A435 - edge Three Elms - A4103 - Red to A49	Moderate Adverse	Moderate Adverse	Moderate Adverse	Neutral	Slight Adverse	55 to 69 Fields / Land Parcels	Large Adverse	Slight Adverse
23	Black1	A465(SLR) - Red - Olive - Wye(centre) - Olive - Black - A435 - Black - A4103 - Black - Red to A49	Moderate Adverse	Moderate Adverse	Moderate Adverse	Neutral	Moderate Adverse	70 to 51 Fields / Land Parcels	Large Adverse	No Impact
24	Black2	A465(SLR) - Red - Wye(outer E) - Red - Black - A435 - Black - A4103 - Black - Red to A49	Moderate Adverse	Moderate Adverse	Large Adverse	Neutral	Moderate Adverse	70 to 51 Fields / Land Parcels	Neutral	No Impact



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Meeting:	Cabinet
Meeting date:	Thursday 18 January 2018
Title of report:	Sustainable Modes to School Strategy
Report by:	Cabinet member transport and roads and cabinet member for young people and children's wellbeing

Classification

Open

Decision type

Key

This is a key decision because it is likely to be significant having regard to: the strategic nature of the decision; and / or whether the outcome will have an impact, for better or worse, on the amenity of the community or quality of service provided by the authority to a significant number of people living or working in the locality (two or more wards) affected.

Notice has been served in accordance with Part 3, Section 9 (Publicity in Connection with Key Decisions) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

Wards affected

(All Wards);

Purpose and summary

To approve the Sustainable Mode of Travel to School (SMOTS) strategy for adoption by the council and approve the contents of the general scrutiny committee recommendations.

Recommendation(s)

That:

- (a) **The Sustainable Modes of Travel to School Strategy at appendix 1 be adopted; and**
- (b) **The response to the recommendations of general scrutiny committee at appendix 3**

be approved.

Alternative options

1. The SMOTS strategy is not adopted and we do not carry on with its development. This is not recommended as the adoption of a SMOTS strategy is a statutory duty placed on councils by the Education Act 1996 (as amended).

Key considerations

2. The production and update of the SMOTS strategy is a statutory duty set out in the Education Act 1996 (as amended). The act details the activities that should be undertaken in producing and adopting a SMOTS strategy, these include:
 - a. Assess the school travel needs of the area;
 - b. Assess the facilities and services for sustainable modes of travel to, from and within the area;
 - c. Prepare for each academic year a document containing the strategy to promote the use of sustainable modes of travel to meet the school travel needs of the area (“a sustainable modes of travel to school strategy”);
 - d. Publish the strategy in such manner and by such time as may be prescribed; and,
 - e. Promote the use of sustainable modes of travel to meet the school travel needs of the area.
3. The recommended SMOTS strategy is contained in appendix 1. This sets out the priorities to engage and encourage pupils to walk, cycle or take the bus to their place of education and reduce reliance on the private car where it is practical to do so. It is intended to apply to travel by pupils of compulsory school age and sixth form age to and from any school within the county. The document sets out the data collection and analysis undertaken in developing the strategy.
4. In addition to highlighting the connections to other policies, including in relation to the potential to secure S106 funding from developers to improve transport facilities, the strategy sets out, in Chapter 6, an action plan to encourage use of sustainable modes of transport to school. Some of the key actions include:
 - a. facilities at schools to support walking and cycling;
 - b. Increasing the numbers of schools with up-to-date travel plans;
 - c. Continuing to deliver cycle training through the Department for Transport funded Bikeability scheme;
 - d. Consideration of sustainable transport infrastructure in proximity to schools in the public realm annual plan;
 - e. Developing and implementing a SMOTS strategy plan for a pilot school; and

Further information on the subject of this report is available from
Mathew Howells, Tel: 01432 383143, email: mathew.howells@herefordshire.gov.uk

- f. Responding through the neighbourhood planning consultation process to ensure school transport needs are supported.
5. The current SMOTS was published by the council in 2009. Whilst the broad thrust of the policy remains the same the development of the new strategy has provided an opportunity to take account of the now adopted Local Plan Core Strategy, Local Transport Plan and the current Health and Wellbeing strategy. It has been prepared using all relevant available data and has been subject to consultation with schools and the public. Key elements of the new strategy include:
 - a. Updated strategy aims, objectives and targets
 - b. Accident, bus transport numbers and child health data
 - c. An infrastructure audit of all schools
 - d. An action plan setting out specific activities to deliver our objectives
 - e. How we plan to monitor school travel behaviour; and
 - f. A description of our consultation activities.
6. The SMOTS strategy provides a framework for promoting sustainable travel to schools, assists them in developing their own travel plans and complements the council's wider aims and objectives

Community impact

7. The SMOTS strategy will affect all communities across the county and will provide support for and complement a number of other council strategies and plans including the Corporate Plan, the Core Strategy, the Local Transport Plan and the Health and Wellbeing Strategy. This will be achieved by seeking to improve health outcomes and addressing traffic congestion.
8. The council is committed to providing a healthy and safe environment for all individuals impacted by the council's funded activities. The council endeavours to ensure that the work they and their partners undertake, does not adversely affect the health, safety or welfare of members of the public. Further details regarding health and safety are set out in related policy and strategy documents including the highways maintenance plan, the home to school transport policy and operational policies and procedures for school crossing patrols, cycle and pedestrian training and school transport services.

Equality duty

9. Section 149 of the Equality Act imposes a duty on 'public authorities' and other bodies when exercising public functions to have due regard to the need to:
 - a. Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the 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 SMOTS strategy will not have a detrimental impact on equality as it will encourage greater access to schools and education for all pupils.

Resource implications

11. The SMOTS strategy in itself does not commit the council to expenditure, but sets the parameters within which future proposals will be considered. Proposals / schemes will be developed on a case by case basis, progressing through the appropriate governance channels.
12. The SMOTS strategy action plan can be delivered within existing budgets and resources.

Legal implications

13. The council has a statutory duty each academic year to prepare and publish a document which contains its strategy to promote the use of sustainable modes of travel to meet the school travel needs of Herefordshire. This statutory duty is set out in Section 508A of the Education Act 1996 (as amended), regulation 8 and paragraph 9, schedule 3 of the School Information (England) Regulations 2008 and the Department for Education statutory guidance document Home to School Travel and Transport published in July 2014.
14. The statutory defined purpose of such sustainable modes of transport must improve on both:
- a. The physical wellbeing of those who use them; and
 - b. The environmental wellbeing of the whole or part of Herefordshire.
15. The Act further defines school travel needs as those relating to the needs of children and young persons of sixth form age to travel to and from school, institutions within the further education sector, 16-19 academies or places where they receive education or training.

Risk management

16. If we fail to refresh the SMOTS strategy we will be open to challenge for not fulfilling our duties set out in the Education Act 1996 and the policies contained in our local transport plan.
17. A number of key risks have been identified and are highlighted on the risk management plan within the SMOTS strategy (Appendix 1, page 20). Some of the risks include:
- a. Availability of robust data to monitor the strategy – the strategy sets out a range of sources which can be utilised to coordinate school travel data and also an approach to government to re-instate the annual school travel census;

- b. Funding availability – the strategy identifies a number of potential funding sources for capital schemes and also identifies the public realm annual planning process which will consider schemes identified by local communities;
- c. Coordination across different council service areas – the strategy identifies the development of a cross directorate working group which will help improve the coordination of activities targeting the supporting children:
- d. Limited enthusiasm/capacity in schools to engage in school travel planning – the cross directorate working set out in c. will be used to explore how best to support schools to engage more actively in travel planning.

Consultees

18. The SMOTS strategy was presented to GSC on the 11th July 2017 which put forward a number of recommendations. The details of the GSC's recommendations and proposed response are set out at appendix 3 including specific changes which have been incorporated into the strategy document.
19. A public consultation was undertaken providing the opportunity to comment on a draft SMOTS between 13th July 2017 and 29th September 2017. The consultation was publicised and targeted information provided to schools, local members and the general public. We received 132 responses in total and these have helped inform the final strategy. Whilst school travel issues are often brought to the council's attention by schools across the county it is disappointing that no consultation responses were received from schools.
20. Most common responses comprised:
- a. Concern over lack of a target set for Hereford modal shares;
 - b. Difficulty in getting schools to co-operate with developing travel plans with incentives;
 - c. Closer working with Public Health; and
 - d. The need to add additional text under the highways management section to make reference to the Local Transport Plan 2016-2031 asset management policies.
21. In light of the consultation responses we have made the following changes to the draft version:
- a. Clarification of the link between actions, targets and objectives which will enable monitoring of the impacts of the strategy;
 - b. Inclusion the most recent robust dataset clarifying school travel modes;
 - c. A clearer linkage between this strategy and Public Health activities targeted at children;
 - d. Clearer linkage between the strategy and the council's highway asset management policies.

22. The views of Members and Group Leaders have been sought on this report and no comments have been received.

Appendices

Appendix 1- SMOTS strategy document.

Appendix 2- Equality assessment.

Appendix 3- GSC recommendations and responses.

Background papers

None

Sustainable Modes of Travel to School Strategy



October 2017

HEREFORDSHIRE COUNCIL

Sustainable Modes of Travel to School strategy

Contents Amendment Record

This report has been issued and amended as follows:

Issue	Revision	Description	Date	Signed
1	0.9	Consultation draft	22/06/2017	MH
1	1.0	Final draft	24/10/2017	JC

Executive summary

This Sustainable Modes of Travel to School strategy (SMOTS) outlines how we propose to promote and facilitate sustainable travel to and from schools through road safety education, school engagement and infrastructure delivery. This SMOTS strategy applies to all pupils of a compulsory school age attending educational facilities within Herefordshire.

This document sets out the policy and strategic context, and the vision and objectives that we aim to deliver with the SMOTS strategy. In the development of the strategy we collected and analysed travel, health and accident data and undertook an audit of existing walking and cycling infrastructure near schools.

The vision for the SMOTS strategy is:

“To have a fully integrated transport system where every pupil within Herefordshire, where appropriate, has the option to travel to and from school through active travel choices, improving health, safety and reducing reliance on short distance car journeys”

The SMOTS strategy objectives we propose are to:

- Improve the safety of pupils and parents;
- Improve the health and well-being of pupils; and to,
- Reduce congestion during peak times.

To understand the travel habits of pupils in Herefordshire we have used school census data from 2011 as to how pupils normally travel to and from school. Earlier this year we collected accident and health data and established the extent and type of walking and cycling infrastructure near schools and why pupils used the various travel modes. Our findings included:

- In 2011 31% of pupils travelled to school by car whilst 39% walked and 1% cycled. A further 21% used the bus, comprising both public bus services and those provided by the council;
- 16 schools have 20mph limits in the immediate vicinity;
- 75 schools have cycle racks and 17 schools have parent waiting shelters;
- The council provides bus transport for 3,318 pupils with 284 paying for vacant seats;
- 23% of pupils in reception year and 34% of pupils in year 6 are overweight.

We highlight the extensive program of schemes and projects that we deliver:

- Bikeability - specialist cycle training from the basics of balance and control to independent journey planning;
- Road safety education and school crossing patrols - undertaken by our road safety unit, delivering education talks and practical sessions to schools;
- Access fund projects - funded by the Department for Transport to encourage behaviour change; and
- Hereford transport packages - major infrastructure projects taking place in Hereford, likely to include walking and cycling measures.

We set out how we propose to deliver both capital and revenue schemes through an action plan. We describe an appraisal framework used to prioritise capital schemes to ensure we make the best use of limited resources to target schools with the greatest need and where we can achieve significant behaviour change.

Key performance indicators and targets are set to measure how we perform and deliver against our objectives. A monitoring program to measure against these key performance indicators has been set. The monitoring includes:

- Hands-up surveys in schools;
- Number of casualties from collisions near schools;
- Number of schools with up-to-date travel plans; and,
- Peak period traffic flows.

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1. Introduction

This Sustainable Modes of Travel to Schools (SMOTS) strategy describes how we propose to promote and facilitate sustainable travel to and from schools, through road safety education, school engagement and infrastructure delivery.

The SMOTS strategy applies to travel by pupils of compulsory school age to and from any school within the county. By promoting and facilitating sustainable travel we can contribute to:

- Reducing traffic congestion and accidents;
- Improving health and well-being and air quality.

This document sets out:

- The legal, policy and strategic context which has helped shape our SMOTS strategy;
- Our vision and objectives for school travel;
- Pupil travel patterns;
- Barriers to sustainable school travel;
- How we propose to improve transport in the future; and,
- Proposed key performance indicators and targets.

Consideration will need to be given to those pupils that travel from outside the county to schools within the county. These pupils still need to be catered for to ensure they have appropriate access to our schools.

Herefordshire

Herefordshire is a predominantly rural county and has a population density of 86 people per square kilometre, which is the fourth least densely populated area in England. This means that the journey to school is often long and can only reasonably be made using busy rural roads which are often unsuitable for walking and cycling.

There are 79 primary schools, 15 secondary schools and 3 special education schools in Herefordshire. Currently, there are 23,013 pupils (school census 2015) in all local authority and academy schools. The school years' with the biggest population are years 1, 2 and 3 (school census 2015). 17% of the population within Herefordshire is under 16. In January 2016 there was a net positive import of 248 pupils coming from neighbouring authorities to schools within Herefordshire ([Department for Education 2016](#)).

Figure 1 - Map of Herefordshire and school locations



2. Vision and objectives

The vision and objectives set out below has been drawn from national and local policies and strategies. The SMOTS strategy objectives reflect objectives contained in the Local Transport Plan (LTP) and the Local Plan Core Strategy. The vision is:

“To have a fully integrated transport system where every pupil within Herefordshire, where appropriate, has the option to travel to and from school through active travel choices, improving health, safety and reducing reliance on short distance car journeys”

To help deliver this vision we have set the following strategy objectives:

1. **To improve the safety of pupils and parents** - through targeted road safety initiatives to educate pupils and by delivering walking and cycling schemes near schools.
2. **To improve the health and well-being of pupils** - promote the benefits of sustainable travel through delivery with our partners in public health.
3. **To reduce congestion** - by encouraging and facilitating sustainable travel we will reduce private car use.

3. Legal, policy and strategic context

Education Act 1996

The Education Act 1996 placed a statutory duty on local authorities to produce a strategy to promote and facilitate sustainable modes of travel to schools. To comply with the Act a local authority must undertake the following activities:

- Assess the travel and transport needs of children and young people;
- Audit the infrastructure to support sustainable school travel;
- Have a strategy to develop infrastructure to support travel needs of pupils;
- Promote sustainable travel and transport to and from school; and,
- Publish a SMOTS strategy on their website by 31 August each year.

The School Standards and Framework Act (1998) introduced the concept of parental choice for school attendance which significantly changed pupil travel habits away from walking and cycling to more car based forms of transport.

National and local strategies and policies

In addition to the Education Act 1996, the SMOTS strategy has also been developed to deliver a number of national and local policies. Some of the national policies, guidance and strategies relevant to SMOTS include:

- ‘Cycling and walking investment strategy’, Department for Transport (April 2017);
- ‘Everybody active every day: a framework to embed physical activity into daily life’, Public Health England (October 2014); and,
- ‘Walking and cycling: local measures to promote walking and cycling as forms of travel or recreation’, NICE (November 2012).

Of particular relevance is the Home-to-school travel and transport statutory guidance published by the Department for Education in 2014. The guidance states that:

‘Local authorities should, in large part, base their assessment of children and young people’s travel and transport needs on the data provided by schools or colleges, often contained within school travel plans. Effective school travel plans, updated as necessary, put forward a package of measures to improve safety and reduce car use, backed by a partnership involving the school, education, health and transport officers from the local authority, and the police. These seek to secure benefits for both the school and the children by improving their health through active travel and reducing congestion caused by school runs, which in turn helps improve local air quality.’

In the light of this guidance we used school travel plans to form our understanding of schools’ needs for sustainable travel infrastructure and activities for inclusion in this strategy.

In addition to the national policies, the strategy will deliver against a number of local policies and contribute to the delivery of local objectives. The local policies and plans adopted by Herefordshire Council, that will be supported by the strategy include:

- **Corporate Plan 2016-2020:**
 - “Keep children and young people safe” is a priority for the Corporate Plan.
- **Local Plan Core Strategy:**
 - Supporting access to schools in more sustainable locations and by ensuring that new developments acknowledge the transport needs of pupils.
- **Local Transport Plan 2016-2031:**
 - Establish the existing and potential demand for sustainable school transport and what schemes and other initiatives should be delivered to facilitate that demand.
- **Health and Wellbeing Strategy:**
 - Ensure that children and young people are fit and well, including keeping all children safe.

Local Transport Plan 2016-2031

The Local Transport Plan (LTP) was formally adopted by the council in March 2016. The LTP objectives comprise:

- Enabling economic growth;
- Providing a good quality transport network for all users;
- Promoting healthy lifestyles;
- Making journeys easier and safer; and,
- Ensuring access to services for those living in rural areas.

The SMOTS strategy will help deliver these objectives by:

- Promoting the use of and facilitating sustainable travel;
- Improving the network for journeys to and from school;
- Improving safety;
- Reducing congestion; and,
- Helping those in rural areas to access education.

Hereford transport strategy

A priority for our LTP is to reduce congestion in Hereford, particularly during term time when traffic conditions are noticeably worse than during the school holidays. Short distance car journeys, including those to and from school, are a significant contributor to congestion in Hereford. Our transport strategy for Hereford includes improvements to network operation, which will be delivered through infrastructure schemes, in combination with behavioural change projects which include school travel plans.

Travel to school policy

The travel to school policy in its current form is contained at Appendix 1. Currently we provide 15% of the Herefordshire pupil population with transport to and from school.

We also provide arranged transport for post 16 college and sixth form students; this is an addition to our statutory duty. We do this through financial support for students aged 16-19 travelling to and from schools and colleges within the county.

Herefordshire also runs a Vacant Seat Payment Scheme (VSPS). This scheme means that a pupil who does not meet the free 'travel to school' criteria can pay to have a seat on a bus that is not being taken by another pupil who is eligible for free transport. This service could be withdrawn at any time, if the seat is required by a pupil that is entitled to free transport.

Further details on pupil numbers travelling on transport services arranged by the council can be viewed in Section 4.

4. Current trends

To understand the needs of the pupils within Herefordshire we undertook data collection to establish current travel habits and the reasons for them, the location and types of infrastructure in the vicinity of schools, the number of accidents and statistics on pupil health.

Current travel habits

To understand the demand for travel on the network we have used the school census data that was collected on a term by term basis. The school census data collection process was a requirement of the Department of Education. Schools with an adopted travel plan were required to provide how their pupils access the schools; however, this data has not been required for collection since 2011. Figure 2 outlines how pupils normally travelled to school within Herefordshire in 2011.

How pupils normally travel to school within Herefordshire

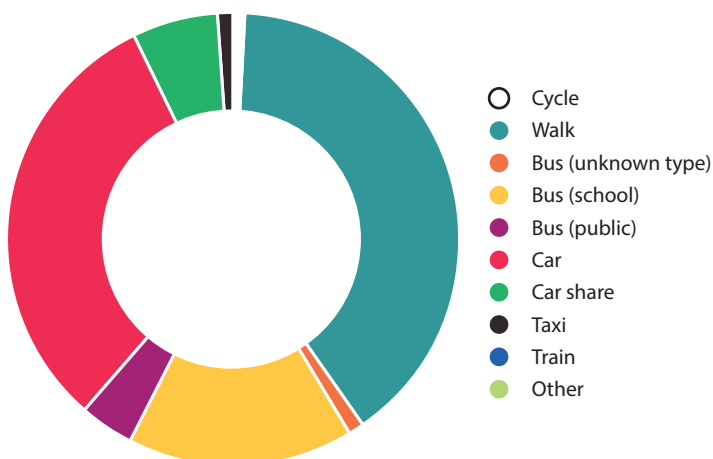


Figure 2- percentages of how pupils normally travel to school from school census 2011

Across Herefordshire, in 2011, walking was the dominant mode choice with 39%, 31% used the private car, 1% cycled and 6% car-shared to schools. 20% used the bus, 16% via local authority provided buses and 4% on public services.

This data has not been updated since 2011 as the question was removed from the school census. The data also does not give information on the distances that pupils travel or why pupils use this mode to access schools.

Transport infrastructure

We have undertaken 'desktop' infrastructure audits to establish the availability of walking and cycling infrastructure in the vicinity of schools. We did this using Google Earth and Street View. The full results from this audit can be viewed in Appendix 2. Findings from the audit included:

- 16 schools have 20mph limits in the immediate vicinity;
- 65 schools have zig-zag "School keep-clear" markings
- 14 zebra crossings, 15 pelican crossings and 8 toucan crossings;
- Cycle racks available at 75 schools;
- 17 schools have parent waiting shelters; and
- 14 schools have traffic calming measures.

School travel plans

Currently 60% schools have a travel plan. Appendix 2 contains a list of schools that have travel plans and the date when they were drafted.

As the majority (64%) of travel plans are outdated (>3 years old) we will continue to promote school travel plan production and work with our delivery partners to update school travel plans.

Travel to school provision

We transport 3,318 pupils to schools within Herefordshire. Of these 284 are through our VSPS and 504 receive transport on grounds of hazardous routes. 3,013 pupils receive free transport to school. Approximately 15% of all pupils within Herefordshire are on local authority arranged transport, either through free transport or through the VSPS.

504 pupils receiving transport as their routes to school have been deemed hazardous is a significant number of pupils, at a time when budgets are stretched this adds significant additional pressure. We will investigate and address these issues where appropriate and feasible.

Table 1 below shows pupil population densities in English counties. Herefordshire has the lowest secondary school pupil density with 0.045 pupils per hectare. This low density, and the implied long distances between schools and homes, is a significant challenge in the provision of adequate transport for pupils

Table 1 - Secondary pupil population density

Authority	Area (ha)	Secondary schools	Secondary pupils	Av pupils/ sec school	Av area (ha)/ sec school	Secondary pupils per ha	SEN schools	SEN pupils	Av pupils / SEN sch	Av area (ha) / SEN school	SEN pupils per ha
Herefordshire	217,973	15	9,805	654	14532	0.045	4	296	74	54493	0.0014
Bath & NE Somerset	34,574	14	12257	876	2470	0.355	3	407	136	11525	0.0118
Central Bedfordshire	71,566	32	20573	643	2236	0.287	4	492	123	17892	0.0069
Cheshire W & Chester	91,666	19	16659	877	4825	0.182	10	828	83	9167	0.0090
Cornwall	354,619	32	30,935	967	11082	0.087	5	380	76	70924	0.0011
East Riding	240,768	18	21,310	1,184	13376	0.089	3	296	99	80256	0.0012
Isle of Wight	38,016	8	7391	924	4752	0.194	3	262	87	12672	0.0069
Lincolnshire	592,062	54	48,055	890	10964	0.081	20	1679	84	29603	0.0028
Norfolk	537,056	51	47,745	936	10531	0.089	11	1199	109	48823	0.0022
N Lincolnshire	84,631	13	9,355	720	6510	0.111	2	262	131	42316	0.0031
N Somerset	37,379	11	12393	1,127	3398	0.332	3	263	88	12460	0.0070
NE Lincolnshire	19,184	10	8779	878	1918	0.458	2	296	148	9592	0.0154
North Yorkshire	803,761	44	38,405	873	18267	0.048	12	765	64	66980	0.0010
Rutland	38,152	3	2,625	875	12717	0.069	1	9	9	38152	0.0002
Shropshire	319,730	22	16,600	755	14533	0.052	2	435	218	159865	0.0014
Somerset	345,055	39	31,000	795	8848	0.090	8	525	66	43132	0.0015
S Gloucestershire	49,695	17	16429	966	2923	0.331	4	388	97	12424	0.0078
Suffolk	380,018	60	46,285	771	6334	0.122	9	977	109	42224	0.0026
Wiltshire	325,534	29	29,590	1,020	11225	0.091	6	554	92	54256	0.0017

Accidents near schools

We have gathered accident data to establish the number of accidents in the vicinity of schools using the following criteria:

- Casualty aged between 0-19;
- Accidents in the AM (7am-10am) and PM (3pm-7pm) peak hours;
- Locations of the incidents; and,
- Within the last five years.

In total, 210 casualties were recorded of which 34 casualties were involved in an accident which was classified as serious.

Below is a table highlighting the number of accidents over the last 5 years:

Table 2- number of accidents per year in Herefordshire.

Year	Total accidents	Serious	Slight
2011	54	6	48
2012	46	7	39
2013	43	7	36
2014	29	3	26
2015	38	11	27
Total	210	34	176

As a part of our ongoing commitment to reduce all accidents within the county, there is a review into accident causation and how we mitigate accidents to reduce the number and severity of casualties.

Health data

Public Health England collects a large amount of data on the health and activity levels of the population. In 2015/16, 22.8% of Herefordshire pupils in reception year were considered overweight (9.8% were considered obese) rising to 33.8% for the pupils in year six (19.8% were considered obese). Nationally, the obesity figure is 9.3% for pupils in reception and 19.8% for pupils in year six. This is a significant number of pupils and is likely to lead to additional pressure on the health system. The levels seen in Herefordshire are considered to be similar to the national average.

Summary and conclusion

The data described above provides a useful insight into school travel behaviour, health, accidents and the availability of walking and cycling infrastructure near schools.

The data shows that walking is the most common mode of transport to and from schools, with car use making up a smaller proportion of mode share. Distance is likely to be the dominant reason why pupils are transported to school by car although safety concerns are also relevant.

The school infrastructure audits provided information on existing conditions and the extent to which there are gaps in walking and cycling infrastructure for home to school journeys.

5. Current intervention programs

We run various engagements with schools to encourage pupils to walk and cycle whilst educating them in road safety awareness. The programs include Bikeability, road safety education and the delivery of behavioural change projects funded by the Access Fund. We also anticipate delivering infrastructure through the Annual Plan, Hereford transport packages, developer contributions (Section 106) and other capital funds which we bid for as and when the opportunities arise.

Bikeability

Bikeability is a national initiative that is funded by the Department for Transport and administered by local authorities. Bikeability provides three levels of cycle training. Each level varies in what it covers and ranges from the basics of balance and control to journey planning and independent travel.

We are currently delivering Bikeability to a number of schools. In 2015/16 we delivered Bikeability to 1,199 pupils (1,084 for Bikeability level 1 and 115 for level 2). We will continue this initiative as long as funding is available from central government.

Road safety education and school crossing patrols

Road safety education to schools is delivered by our Road Safety Officers. These officers deliver education to schools within the county. Talks are delivered to pupils in key stage one, year 6, year 7 and year 8 covering road safety education. Pedestrian training is also delivered to primary school pupils. We offer both practical and theory pedestrian training to primary school pupils.

We provide support for the initiative Crucial Crew, which is a multi-agency event aimed at year 6 pupils. The initiative delivers different messages on personal safety including road, water and fire safety to key stage two pupils over a two week period. In 2015/16 this was attended by 63 schools from the county and is organised by West Mercia Police.

We deliver a pre-driver and passenger event to year 11 pupils called Dying to Drive. This is aimed at improving pupils' awareness of the dangers of unsafe driving.

We currently arrange and support the use of school crossing patrols within the county. There are a total of 12 school crossing patrols. Of these 6 are funded directly through the council with a further 6 funded by the schools.

Access fund

In 2016 Herefordshire was awarded £1.5m from the Department for Transport (DfT) Access Fund. The grant provides us with three years of funding for behavioural change projects. Under the banner of Destination Hereford behavioural change projects will be delivered directly to schools through a delivery partner on our behalf. At the current time this partner is Sustrans. The program is a mixture of both practical and theory activities that aim to encourage and enable long term behaviour change.

Some of the activities include bike and scooter skills, maintenance, bike clubs, walking initiatives, assemblies, class talks, integrating active travel within the curriculum and travel plan writing. Sustrans work with our road safety unit on the junior road safety initiative and provide holiday clubs as part of their delivery program.

They also undertake some minor monitoring with the schools, including hands up surveys and bike counts. A report is submitted at the end of every school year on the achievements and travel choices.

Annual plan

The annual plan is the process by which we in partnership with our delivery partner (Balfour Beatty Living Places) set out our programme for work on the transport network for each year. Schemes that need to be included in the annual plan must meet a number of criteria to ensure the schemes fit against the objectives set out in the LTP.

Some of these considerations include:

- Safety;
- Environmental;
- Socio-economic;
- Risk;
- Stakeholder engagement; and
- Whole-life costs.

The schemes are fed through community consultation with county councillors and parish councils. This is normally undertaken by the locality stewards. Schemes highlighted in the Neighbourhood Development Plans also feed into the annual plan. During the development of the annual plan key stakeholders are consulted to ensure the appropriate schemes are taken forward.

Developer contributions (Section 106)

Infrastructure improvements can be delivered in the vicinity of schools through developer contributions. We use school travel plans to establish the needs of schools to ensure that when developments come forward we have the information available to use developer contributions to improve walking and cycling infrastructure on routes to and from schools.

The design and implementation of sustainable transport measures is in line with the policies and objectives set out in the Core Strategy, LTP and the SMOTS strategy. We also ensure that the transport requirements of schools are contained in Neighbourhood Development Plans.

Highways management

Herefordshire Council's Transport Asset Management Plan (TAMP) and asset management policy set within the Local Transport Plan 2016-2031, outlines how highways maintenance is delivered within the county. The document is available to view on the Herefordshire Council's website.

Whilst the TAMP does not refer to schools as having a direct influence on how the network is prioritised for maintenance, the location of the school would be part of the wider considerations used in programme development and delivery.

Public Health

Public Health England has an extensive list of initiatives aimed at children and young people to improve their health and wellbeing. The 'Change4Life' initiative covers many areas from eating habits to physical activity. 'Change4Life' encourages people to make small changes in their daily lives including walking and cycling to schools. There are a number of materials available to schools to encourage this behaviour change.

6. Funding and Action Plan

Funding

We will continue to work with our delivery partner Balfour Beatty Living Places (BBLP) to ensure that any opportunity to improve the sustainable travel network is delivered through the annual plan.

We engage with internal colleagues and delivery partners to maximise any opportunity to make improvements to sustainable travel schemes when funding becomes available.

For revenue projects we will continue to bid for government funding. We will build on our previous successful delivery from our Local Sustainable Transport Fund, Transition Fund and the recently awarded Access Fund. For capital projects we will continue to engage with planning colleagues to ensure that any Section 106 funding which becomes available is used to improve routes to schools. To ensure that Section 106 funding is available for walking and cycling schemes, there needs to be a clear and demonstrable link between the policies and priorities set within the Local Plan Core Strategy and the LTP, and the need for specific walking and cycling schemes.

The South Wye Transport package and Hereford Transport Package could provide funding to improve walking and cycling infrastructure for schools in Hereford.

Action plan

To deliver our objectives and vision we have set out below actions that will improve the provision of sustainable transport in Herefordshire:

Ref	Action	Status	Timescale	Responsibility	Stakeholders	Objective
1	Encourage and promote use of park and share/park and cycle sites to access educational facilities	To commence	Short/Medium term	Herefordshire Council sustainable transport officer	Schools, teachers, parents, students	1,3
2	Install bike racks and parent waiting shelters through travel grants	Ongoing	Short/Medium	HC sustainable transport officer	Schools	2,3
3	Improve the number of up to date school travel plans – by engaging with schools through our delivery partner	Ongoing	Short/ Medium	Sustrans schools officer*	Schools, Sustrans, Pupils	1,2,3
4	Engage with our highways asset management teams to ensure maintenance around schools is captured appropriately- including re-lining or anti-skid surfacing (included in annual plan)	Ongoing	Short to long term	HC Highways and BBLP	Schools, HC, BBLP, parents, pupils	1
5	Continue to deliver Bikeability to schools	Ongoing	Short	Sustainable transport officers	Schools	1,2,3
6	Road safety education- continue our program of engaging with schools to deliver talks and practical sessions	Ongoing	Short	Road safety officers	Schools	1
7	Continue the delivery of our long-term behavioural change projects with schools	Ongoing	Short	Sustrans schools officers*	Schools, Sustrans	1,2,3
8	Forward 'long list' of capital schemes to colleagues in BBLP for consideration in the annual plan process and consider for Section 106 funding and major transport scheme funding	Ongoing	Short	HC Transportation and BBLP	Schools	1,3
9	Provide walking and cycling promotions to secondary schools and colleges of higher education	Ongoing	Short	Sustainable transport officer	School, pupils and college students.	1,2,3
10	Engage bus companies when tendering for services to ensure routes take in schools where feasible, taking into account the needs of pupils accessing schools within the county	To commence	Medium/long	Passenger transport	Schools, bus companies, parents	3
11	Encourage the use and start-up of walking buses or park and stride initiatives	To commence	Medium	Sustainable schools officer, road safety officers	Schools, parents, pupils	2,3

*At the current time these are being delivered by Sustrans, however, future engagement may be undertaken by another company depending on contracts

Action plan (continued)

Ref	Action	Status	Timescale	Responsibility	Stakeholders	Objective
12	Promote the use of car sharing as a viable way to access schools- by working with schools encourage parents to car share	To commence	Medium	HC sustainable transport officers, road safety officers	Schools, parents, pupils	3
13	When developing the active travel measures for the major transport packages ensure that infrastructure to and from schools are taken into consideration	Ongoing	Long-term	HC transportation and infrastructure delivery	Schools, BBLP, HC	1,2,3
14	Neighbourhood Development Plans- ensure that the needs for schools are accurately captured in the Neighbourhood Development Plans	Ongoing	Short to long-term	Parish councils	Schools, Parish councils, HC, local members	1,3
15	Feed the needs of pupils into the Local Cycling and Walking Infrastructure Plan (LCWIP)	To commence	Short-term	HC	Schools, parents, HC, local members	1,3
16	Request local members support to promote school travel plans and collect data	To commence	Short-term	HC, schools, Local members	Schools, parents	1,2,3
17	Develop a SMOTS implementation plan to test on pilot school.	To commence	Short-term	HC, Schools, local members, parish council	Schools, parents, local members	1,2,3
18	Set-up cross-sector internal working group to develop targets, liaison with schools and data collection	To commence	Short-term	HC, Education, Public Health	HC, schools	1,2,3
19	Review contracts with delivery partner (Sustrans) to ensure their targets are aligned with those in the SMOTS	Ongoing	Short-term	HC, Sustrans	HC, Schools, Sustrans	2,3
20	Annual review- to ensure the action plan keeps up with latest developments and remains fit for purpose we will review the annual plan on an annual basis	To commence	Short to long-term	HC transportation	HC, schools, local members	1,2,3

*At the current time these are being delivered by Sustrans, however, future engagement may be undertaken by another company depending on contracts

Term	Length
Short	<2 years
Medium	2-5 years
Long	>5 years

7. Risk management plan

When developing the action plan we have identified a number of risks, below is a table highlighting these risks and their mitigations. The risks, and their mitigation, will be reviewed at each project progress meeting.

1	Risk	Mitigation
2	Pupil travel data is not made available by schools, particularly pupil mode and postcode data. It will not be possible to monitor the effectiveness of the strategy without this data.	Ongoing liaison with schools through the Eco schools officer, Road safety officers, public health and Sustrans school officer to request and assist schools with data collection. Councillors who are school governors have also been requested to highlight the need for schools to provide travel data. Cabinet members have also written to the local MPs to raise the issue with DfE officials.
3	Funding availability.	Funding for the activities and projects set out in the Action Plan will need to come from a range of sources, such as the Local Transport Plan and S106 contributions. For schools in Hereford there is also the potential for funding through the major scheme packages, particularly the Hereford and South Wye Transport Packages. SMOTS projects will also be delivered through the BBLP Annual Plan
4	Poor quality or absent cross directorate working in the Council	The SMOTS strategy is led by the Cabinet members for transport and roads for young people and children's wellbeing. The cross directorate working group will also ensure that transport, education and health issues are included in the development and delivery of the Action Plan.
5	Lack of support from schools for SMOTS projects	Use the communication channels set out in risk 1 above. Identify and attend cross-school meetings to make the case for the SMOTS strategy and the benefits it can bring.

8. Targets

To ensure we are achieving our objectives and vision we have set out below a number of Key Performance Indicators (KPI) and associated targets:

Performance	Indicator	Target	Objective
Sustainable transport	The percentage share of pupils using sustainable modes of travel to and from school (includes walking, cycling and bus)	Hereford Targets to be set* Market towns 5% active mode increase Rural Mode shares to remain the same	2,3
Health	The percentage of pupils considered overweight (including obese)	5% below national average	2
Travel plans	The number of schools with up to date travel plans	80%	1,2,3
Personal injuries	The number of casualties aged 0-19 involved in road traffic collisions during peak AM and PM periods	Outcome of ongoing safety review	1
Road safety education	Number of pupils engaged in road safety education programmes and training in schools	10% increase on current by 2021	2
Traffic volumes	The number of cars or vans present on the roads near schools at peak AM and PM hours.	Reduction of 5% on 2017 volumes	3

These targets will be periodically reviewed every five years to ensure they are still fit for purpose and realistic.

*Mode share targets and traffic volumes targets for Hereford will be set in line with our Local Transport Plan, South Wye Transport Package and Hereford Transport Package target setting processes.

9. Monitoring and evaluation

To ensure we can accurately measure how we are performing against our KPIs we have set up a number of monitoring and evaluation projects. These will draw heavily on our well established monitoring programmes. We will undertake the following monitoring:

KPI	Monitoring	Frequency
Modal share to and from school	School hands-up surveys- we will work with schools to undertake these surveys on a typical day in a neutral month. We will undertake twice a year (June and October).	Annual
	School travel questionnaire- we will undertake an online survey that will be comparable with the baseline survey to show a like-for-like comparison.	Every 5 years
Health	The data is retrieved from Public Health England. We will work our health colleagues to ensure we are kept up to date.	Annual
Travel Plans	The number of new and updated travel plans completed during the year and copies submitted to us or Sustrans school officers.	Annual
Accidents	Numbers of children (0-19) casualties (slight and serious) are collected by us and will be reported on	Annual
Road safety education	The numbers of children partaking in activities is already collected and reported by us.	Annual
Peak hour traffic flows	We will use our already established traffic counters and will report on the peak period flow for locations near schools for neutral months (May, June, October and November)	Annual

To ensure we are in line with the Education and Inspections Act 2006 we will release an annual update to the SMOTS strategy to outline how we are performing, what we have delivered and any changes that have been made to the SMOTS strategy (If applicable).

Review Publish date

Annual review to ensure the SMOTS is fit for purpose	Annually by the 31st August
A complete review with data and actions plan updates	Every 5 years

10. Consultation

In the process of developing the SMOTS strategy parents and schools were approached to establish their needs. Details from the questionnaire have been highlighted in Section 4.

To ensure the SMOTS is fit for purpose and deliverable, we will consult with key stakeholders. These stakeholders will include local members, schools, governors, our delivery partners and other interested parties.

We held a consultation over the period July to September this year when we actively sought responses from the public, schools, local members and Council officers. We promoted the SMOTS consultation through Herefordshire Council's webpages, social media, schools newsletters and member's newsletters. Over the period we received:

- 21 e-mails from members of the public;
- 111 responses to our online social media posts; and,
- Four responses from Council Officers and delivery partners.

The majority of the responses focused on the current transport policies and costs of transport to schools. Some other responses included;

- Concerns over lack of modal shift targets for Hereford;
- Roads too dangerous to cycle on;
- Buses overcrowded;
- Footpaths not adequate;
- Difficult to get schools to co-operate with developing travel plans with incentives;
- Closer working with Public Health; and,
- The need to add some additional text under the highways management section.

In response to the issues raised above we will continue to work with public transport and our delivery partners to raise the profile of the issues raised and ensure they are taken into consideration when planning school transport, maintenance and project planning to ensure that the concerns raised are met.

Appendix 1 - Home to school transport policy

Home to school transport policy

1. Roles and responsibilities of parents
 - 1.1 Parents and carers have a legal responsibility to ensure that their children attend school regularly. This includes arranging travel to and from school, meeting the costs of this and accompanying their child as necessary.
 - 1.2 It is the responsibility of the parent or carer to accompany a child (or arrange suitable supervision) as necessary when walking to and from school, including to and from a provided transport pick-up and set-down point, unless such arrangements form part of the provision arranged by the local authority. Passenger assistants will only be supplied on provided transport arrangements where they are necessary to meet a child's individual needs.
 - 1.3 In some cases, the Council has a legal obligation to provide suitable free school transport. This will be provided in the most cost-effective and appropriate way for children's needs. This policy sets out the categories of eligible children, the provision offered, circumstances when assistance is not provided and how to appeal against a decision.
2. Statutory provision of transport by the local authority
 - 2.1 Travel assistance from home to school will be provided for pupils who meet all the following criteria:
 - Live in Herefordshire
 - Are of compulsory school age (i.e. 5 to 16 years), and extended in Herefordshire to include 4 year olds
 - Attend their nearest suitable primary or secondary school, located in England, or their nearest suitable primary or secondary school, if located in Wales
 - Live over 2 miles from school if below the age of 8, and over 3 miles from school if aged between 8 and 16
 - 2.2 In addition, there are some additional entitlements for pupils from families with low incomes (see Section 5).
 - 2.3 The Department for Education (DfE) defines the 'nearest school' as the nearest qualifying school with places available that provides education appropriate to the age, ability and aptitude of the child, and any special educational needs that the child may have.
 - 2.4 Where a pupil attends a school that is not the nearest available school, as a result of parental preference, transport will not normally be provided.
 - 2.5 For distances below those described above, transport will not be provided, as the route is considered to be within the statutory walking distance. These distances are measured by the shortest available walking route (from home address to nearest school gate) using our geographical information system, taking account of public footpaths, along which a child, accompanied as necessary, can walk reasonably safely.
3. Pupils unable to attend their nearest school due to over-subscription
 - 3.1 Where a pupil is unable to obtain a place at their qualifying school because it is over-subscribed, travel assistance will be provided to the next nearest school that has an available place, provided that it is more than the statutory walking distance from the home address.

4. Children living at more than one address

- 4.1 Transport entitlement is assessed using the usual home address for each child; that is where they live for the majority of time. If time is split equally between two addresses, then the address of the parent in receipt of child benefit will be used.

5. Families on low incomes

- 5.1 Children from low income groups (defined as being entitled to free school meals or a family in receipt of the maximum level of Working Tax Credit) have the following additional entitlements to transport free of charge:
- For secondary-aged children aged 11-16, the entitlement to free transport is increased to any one of three nearest schools, where these are between 2 and 6 miles from home.
 - Primary aged children of 8 and above (years 4 to 6) attending their nearest suitable school that is more than 2 miles from home are entitled to free transport.
 - Where a parent or carer expresses a preference for a school based on religion or belief, then a child aged 11-16 is eligible for free transport to the nearest suitable school if they live between 2 and 15 miles of the school.
- 5.2 Eligibility for transport support provided under the low income criteria above will be reviewed on an annual basis.

6. Children unable to walk to school by reason of their special educational needs (SEN), disability, or mobility problem (including temporary medical conditions)

- 6.1 Where a child attends their nearest suitable school, which is within statutory walking distance, but is unable to walk there (accompanied as necessary), they will be eligible for transport assistance.
- 6.2 Applications in this category will be considered on a case-by-case basis and will require evidence from a medical professional and assessment of need. Evidence of factors such as receipt of certain disability benefits may also be requested to assess the level of need.

7. Children unable to walk to school in safety because the route is classed as hazardous

- 7.1 Where a child is attending their nearest school, which is within statutory walking distance, but the nature of the route is such that a child cannot be expected to walk (accompanied as necessary) in reasonable safety because it contains exceptional hazards, they will be eligible for transport assistance.
- 7.2 In order for a route to qualify in this category, it must have been assessed and classified as an unsafe walking route by Herefordshire Council. Assessments take into consideration factors such as the age of the child, vision for pedestrians and motorists, the volume and speed of traffic, street lighting, potential risks on the route, width of the road and the existence of footways.
- 7.3 Assessments do not take account of issues of personal security, as it is the responsibility of a parent or carer to accompany their child as necessary when walking to and from school.
- 7.4 Such routes will be reassessed by the local authority periodically.

8. Discretionary provision of transport assistance

- 8.1 In addition to the statutory duty to provide transport assistance to the eligible pupils outlined above, the local authority will exercise its discretion to provide transport to pupils as follows.

Permanent exclusions or managed moves

- 8.2 Where a child changes school as a result of a permanent exclusion or managed move, then transport assistance will be provided if the school is beyond the statutory walking distance and the local authority agrees with the preference.

House moves

- 8.3 Where a pupil in receipt of free transport moves house and continues to attend the same school, but that school is no longer the nearest, then transport assistance will no longer be provided.

Exceptional Circumstances

- 8.4 Transport assistance may be provided in exceptional circumstances to pupils not otherwise eligible, where such provision is in the best interests of the pupil. Such circumstances may include temporary absences from the home address due to circumstances beyond the control of parents, or other exceptional family circumstances where the pupil might be at risk of educational disruption.
- 8.5 Evidence to support such applications will be required from relevant professionals. Each application will be considered on its own merits.

9. Use of vacant seats on school buses for pupils not eligible for transport assistance (paid-for places)

- 9.1 Where spare seats are available on vehicles contracted by the local authority to provide transport to school, these may be allocated to children not entitled to free transport. A flat rate charge is made for these seats and they are allocated according to the following priority order:
- Year 11 pupils
 - Siblings of pupils currently receiving assisted transport on that service
 - Looked after children
 - Pupils nearest to the school
- 9.2 The situation will be reviewed each term. Places could be withdrawn at any time if they are required by pupils with an entitlement for transport assistance.

10. Transport provision

- 10.1 Where the authority provides transport assistance, this will usually be in the form of a bus pass to use a local bus service or travel on a dedicated contract bus, coach or minibus. For certain journeys, a train pass may be provided. In some circumstances, parents may be offered a mileage allowance or personal travel budget to convey their own child to school. In some instances, where no other transport is available, a taxi may be provided.
- 10.2 Transport arrangements will be made that are considered reasonable and appropriate by the local authority. Equally, such arrangements will be made in the most cost-effective way for the authority.
- 10.3 There are no set limits for what is a reasonable journey time. This will depend on the age and needs of pupils. However, we aim to ensure that no pupil will have a journey of more than 75 minutes (secondary) or 45 minutes (primary).
- 10.4 The Council provides transport for one return journey from home to the school at the official beginning and end of the school day. Transport is not provided to meet a pupil's individual timetable, including breakfast or after-school clubs or extra-curricular activities. Transport is not provided for work experience placements, work-based learning or travel between establishments (school to school).

- 10.5 Transport is not usually provided from door-to-door. Children may be required to walk (accompanied by an appropriate adult as necessary) to and from designated pick-up or set-down points. The distance to such a point will not normally exceed 1 mile for a primary-aged pupil and 1.5 miles for a secondary-aged pupil.
- 10.6 Generally, the driver of school transport vehicles will be the only adult present during journeys. Parents must ensure their children are instructed about good behaviour when travelling and to use seat belts at all times where fitted. A passenger assistant will only be provided where a risk assessment specifically for a particular service suggests that this is necessary.
11. Poor behaviour and withdrawal of transport
- 11.1 In the interests of safety for everyone using school transport, it is important that pupils behave well while travelling.
- 11.2 Head teachers are empowered to take action to address unacceptable behaviour even when this takes place outside of the school premises, when it is reasonable to do so. This includes addressing any behavioural issues on school transport.
- 11.3 The Council has a duty of care to ensure all children travel in reasonable safety and comfort. Any behaviour affecting other passengers, the public or the driver that endangers (whether intentionally or unintentionally) themselves or others may lead to the entitlement to travel being withdrawn, either temporarily or permanently. In such circumstances, the parent will need to arrange and pay for their own transport in order to meet their duty to ensure that their child continues to attend school.
12. Provision of transport for pupils with Special Education Needs
- 12.1 Each individual pupil's special educational needs, as detailed in a formal Statement or Education or Health & Care Plan, will be taken into account at the time of assessment for transport.
- 12.2 Where the distance to the appropriate school is less than the statutory walking distances and/or when a child has no statement of SEN or EHCP, travel assistance will be considered, taking into account the individual circumstances and the travel needs of children with significant sensory, physical, medical or behavioural difficulties that prevent them from getting to school even when accompanied by a parent or carer. In such instances, travel assistance will be considered using supporting written evidence, within the preceding 12 months, from a range of sources that describes the child as having:
- Long term severely restricted independent mobility, due to a physical disability.
 - Long term severely restricted mobility due to a medical condition resulting in persistent pain or extreme fatigue.
 - A sensory impairment resulting in severely restricted mobility.
 - Severe behavioural emotional and / or social difficulties in comparison with other children of their age. This may be linked with cognitive ability or be as a result of a specific development disorder.
- 12.3 Once a pupil is assessed as being eligible for transport assistance, a risk assessment will be undertaken to determine the most appropriate requirements for that individual pupil on the journey to and from school. This assessment will take account of measures to ensure the safety and comfort of that pupil and any other pupils or staff travelling on the vehicle. Following the assessment, appropriate safety equipment may be required on the vehicle. If a harness or restraint is likely to be necessary, this requirement will be discussed with parents or carers, who will be asked to agree to this.
- 12.4 If a parent or carer does not agree with any aspect of transport assistance provided by the authority, then this should be taken up with the Integrated Transport Team. If a parent or carer chooses to withdraw a pupil from transport because they do not agree with any aspect, then they will become responsible for getting the pupil to school themselves and at their own expense, until the matter has been investigated.

12.5 Transport will be arranged in the most cost-effective way and may involve travel by local bus, contract bus or taxi. Door to door transport will only be provided where this is necessary to meet the assessed needs of the child. Therefore, pupils (accompanied by parent or carer) may be required to get to a designated pick-up point.

13. Independent Travel Training

13.1 Independent Travel Training can help support independence by developing personal, social and life skills by looking at the needs and capabilities of a young person. Where a young person is considered sufficiently capable, we will offer independent travel training for them to develop the skills to be able to travel more independently. Where they attain the necessary confidence and ability, we will expect them to travel independently to and from school.

13.2 The training will be given by an approved trainer in partnership with schools and parents or carers.

14. Use of passenger assistants

14.1 Passenger assistants are provided on transport only where a child has a severe physical condition, a medical condition requiring immediate treatment, or severe behavioural difficulties meaning that the health and safety of the child, driver or anyone else travelling in the vehicle would be at risk. The use of an assistant will be reviewed regularly, since the need may change as the child grows older.

14.2 A passenger assistant's duty is to supervise students on a vehicle and to help with boarding and leaving the vehicle where the pupil has physical, sensory or medical difficulties. They are not able to collect pupils from home or take them into school if that would mean leaving other vulnerable children unattended.

15. Residential schools

15.1 Where a child attends a residential school and is entitled to transport assistance, this is provided at the start and end of each half-term or, at the start and end of each week depending on the boarding arrangements. Transport is also provided for official school closures. Transport will not be provided at other times or for parental visits for meetings.

15.2 Where a pupil attends a qualifying residential school, transport assistance will be arranged by the local authority in accordance with the placement terms agreed.

16. Review of transport provision for pupils with special educational needs

16.1 Travel assistance will be reviewed with parents and education and care professionals who know the child and are part of the statement or EHC Plan review. The Council may also review eligibility by a scheduled meeting or by telephone contact. Parents will be told of all decisions in writing. We need to ensure that the service provided continues to be appropriate for the pupil's assessed needs.

16.2 In the event that there is a risk to health and safety of staff or pupils and others using the transport from the misbehaviour of a pupil, access to school transport may be suspended and in serious cases permanently withdrawn as set out in the main school transport policy. When considering suspension or withdrawal of provision regard will be given to the extent to which the child's disability has impacted on their behaviour and what steps can be taken to eliminate the effect of that disability on their behaviour.

How to apply for school transport

If you believe you qualify for transport assistance, or you would like to apply for a seat under the Vacant Seat Payment Scheme, please complete the application form for school travel assistance and return it to:

School and College Transport,
PO Box 236,
Plough Lane,
Hereford HR4 0LE

If your child has any medical conditions that need to be taken account of when assessing transport (Type One Diabetes for example) please supply any supporting information along with the completed application form.

Appealing against a decision made by the local authority regarding school transport assistance?

An appeal against a decision made by our team regarding eligibility for school transport assistance should be made in writing, by completing the school travel assistance – request for review form, and sending to:

Admissions and Transport Policy Manager,
Herefordshire Council,
PO Box 236,
Plough Lane,
Hereford HR4 0LE

Any appeal will be considered and a decision made within fifteen working days. If your appeal is not successful you will still have the right to pursue matters through the local authority's formal complaints procedure.

Appendix 2 - School infrastructure audit results

School	School info			School crossing/patrol				Crossings					Access to school					Traffic management									
	School Address	Post code	Pupil numbers	School travel plan date of latest draft	School crossing patrol (Y/N)	School crossing patrol (Y/N)	Detail	Tactiles and drop kerb	Pedestrian refuge	Zebra crossing	Pelican crossing	Toucan crossing	Other	Pavements leading to school (Y/N)	Missing pavement link (Y/N)	Off road paths (Y/N)	Available for cyclists (Y/N)	Cycle racks (Y/N)	Parent waiting shelter (Y/N)	Cycling lane (Y/N)	Traffic humps (Y/N)	20mph speed limit (Y/N)	Raised plateau (Y/N)	Zig-zags Unenforceable (Y/N)	Zig-zags Enforceable (Y/N)	Other	
City schools																											
Broad-lands Primary	Prospect Walk, Hereford	HR11RT	166	Oct 11	Y	Monitors Hill, HC funded	0	0	0	0	0	0	0	Y	N	Y	N	Y	Y	N	N	N	N	N	N	N	N
Hampton Dene Primary	Church Road, Hereford	HR11RT	246	Sept 11	Y	Monitors Church Road School funded	3	0	0	0	0	0	0	Y	N	N	N	Y	N	Y	Y	N	N	Y	N	N	Road narrowing with vertical measures on Church Road
Hereford Cathedral School	The Old Deanery, Castle Street, Hereford	HR12NG		2010	N		0	0	1	0	0	0	0	Y	Y	Y	Y	N	N	N	N	N	N	Y	N	N	
Holmer C.E. Primary	Holmer Road, Hereford	HR49GX	299		N	Monitors Church Road School funded	0	0	0	0	2	0	0	Y	N	Y	Y	Y	Y	N	N	N	N	Y	N	N	
Lord Sudamore School	Ffilar Street, Hereford	HR40AS	621		Y	Monitors Station Road HC funded	9	0	0	2	1	raised	0	Y	N	Y	Y	N	N	N	N	Y	Y	N	N	N	
Lugwardine Primary	Barnaby Avenue, Hereford	HR14DH	178	June 14	N		0	0	0	1	0	0	0	Y	N	Y	N	Y	N	N	N	N	N	Y	N	N	
Marlbrook Primary	Greencroft, Redhill, Hereford	HR27NT	444		N		2	0	0	0	0	0	0	Y	Y	Y	N	N	N	Y	Y	N	N	Y	N	N	
Our Lady's R.C. Primary	Boycott Road, Hereford	HR27RN	194		N		2	0	0	1	0	0	0	Y	N	Y	N	N	N	Y	Y	Y	Y	Y	N	N	
Riverside Primary	Belmont Avenue, Hereford	HR27JF	362	Oct 11	N		1	0	0	1	0	0	0	Y	N	Y	Y	N	N	N	N	N	N	Y	Y	One-way system along Springfield Avenue	
Robert Owen Academy	Blackfriars Street, Hereford	HR49HS	50	Oct 11	N		1	0	1	0	0	0	0	Y	N	N	Y	N	N	Y	Y	Y	Y	N	N	N	
St Francis Xavier's R. C. Primary School	Venns Lane, Hereford	HR11DT	211		N		4	0	1	4	0	0	0	Y	N	Y	N	Y	N	N	Y	Y	Y	Y	N	N	

School	School info			School crossing patrol		Crossings					Access to school					Traffic management											
	School Address	Postcode	Pupil numbers	School travel plan date of latest draft	School crossing patrol (Y/N)	Detail	Textiles and drop kerb	Pedestrian refuge	Zebra crossing	Pelican crossing	Toucan crossing	Other	Payments leading to school (Y/N)	Missing pavement link (Y/N)	Off road parking (Y/N)	Available for cyclists (Y/N)	Cycle racks (Y/N)	Present waiting shelter (Y/N)	Cycling (Y/N)	Traffic lights (Y/N)	20mph speed limit (Y/N)	Raised pavement (Y/N)	Zig-zags Unenforceable	Zig-zags Enforceable	Other		
City schools																											
St James' Primary	Vicarage Road, Hereford	HR1 2NQ	200	Oct 11	Y	Harold Street and Green Street HC funded	0	0	0	0	0	0	Y	N	Y	N	Y	Y	N	Y	N	N	N	N	N	N	N
St Martin's Primary	Hollybush Walk, Hereford	HR2 6AF	333	May 07	N		1	0	0	0	0	0	Y	N	Y	Y	Y	N	N	Y	N	N	N	N	N	N	N
St Mary's C.E. Primary School, Credenhill				Oct 11																							
St Paul's C.E. Primary	Hampton Dene Road, Hereford	HR1 1UX	429	July 14	Y		2	0	0	0	0	0	Y	N	N	N	Y	N	Y	Y	N	N	Y	N	N	N	N
St Thomas Coningsby Cantilupe C.E. Hereford	Coningsby Street, Hereford	HR1 2DY	174	Oct 11	Y	Monitors Barrs Court Road and Burcott Road HC funded	1	0	1	0	0	0	Y	N	Y	N	Y	N	Y	Y	Y	Y	Y	Y	N	N	Traffic islands and road narrowing
Stretton Sugwas C.E. Hereford	Stretton Sugwas, Hereford	HR4 7AE	106	July 13	N		4	2	0	0	0	0	Y	Y	Y	Y	Y	N	Y	N	Y	N	N	N	N	N	N
Trinity Primary	Barricombe Drive, Hereford	HR4 0NU	565	July 14	N		0	0	0	0	2	0	Y	N	Y	Y	Y	N	N	Y	Y	N	Y	Y	N	N	N
Rural schools																											
Almeley Primary School	Almeley	HR3 6LH	61	May 14	N		2	0	0	0	0	0	N	Y	N	N	Y	N	N	N	N	N	Y	Y	N	N	N
Ashfield Park Primary School	Redhill Road, Ross-on-Wye	HR9 5AU	306	Sept 14	Y	Monitors Archenfield Road HC funded	0	0	0	0	0	0	Y	N	Y	N	Y	Y	N	N	N	N	Y	Y	N	N	N
Ashperton Primary School	Ashperton Hereford	HR8 2SA	167	June 13	N		0	0	0	0	0	0	Y	N	Y	N	Y	Y	N	N	N	N	Y	Y	N	N	N

School	School info			School crossing patrol		Crossings							Access to school							Traffic management						
	School Address	Postcode	Pupil numbers	School crossing patrol latest draft	School crossing patrol (Y/N)	Detail	Tactiles and drop kerb	Pedestrian refuge	Zebra crossing	Pelican crossing	Toucan crossing	Other	Pavements for school (Y/N)	Missing pavement (Y/N)	Available for school (Y/N)	Cycle racks (Y/N)	Parent and child shelter (Y/N)	Cycling (Y/N)	Traffic lights (Y/N)	20mph speed limit (Y/N)	Raised pavement (Y/N)	Zig-zags Unenforceable	Zig-zags Enforceable	Other		
Rural schools																										
Bosbury C.E. Primary School	Leedbury, Herefordshire	HR8 1PX	123	June 14	Y	Monitors School Drive. School funded	0	0	0	0	0	0	Y	N	N	Y	N	N	N	N	N	Y	N	N		
Brampton Abbotts C.E. Primary School	Brampton on-Wye	HR9 7FX	106	July 14	Y	Monitors Brampton Road HC funded	0	0	0	0	0	0	Y	N	N	N	N	N	N	N	N	Y	N	N		
Bredenbury Primary School	Bromyard, Herefordshire	HR7 4TF	77	March 12	N		0	0	0	0	0	0	Y	N	N	N	Y	N	N	N	N	Y	N	N		
Bridstow C.E. Primary School	Ross-on-Wye, Herefordshire	HR9 6PZ	88	June 14	N		22	4	0	0	0	0	Y	N	N	N	Y	N	N	N	N	N	N	No traffic management		
Brockhampton Primary School	Bromyard Worcs.	WR6 5TD	121	Dec 14	N		1	0	0	0	0	0	Y	Y	N	Y	N	N	N	N	N	Y	N	N		
Burghill Community Primary School	Burghill, Hereford	HR4 7RP	86	June 14	N		1	0	0	0	0	0	Y	N	N	Y	N	N	N	N	N	Y	N	N		
Burley Gate	Burley Gate, Hereford	HR1 3QR	94		N		0	0	0	0	0	0	Y	N	N	Y	N	N	N	N	N	Y	N	N		
Canon Pyon C.E. Primary School	Canon Pyon, Hereford	HR4 8PF	72		N		0	0	0	0	0	0	Y	Y	N	N	N	N	N	N	N	Y	N	N		
Clehonger C.E. Primary School	Clehonger, Hereford	HR2 9RQ	118		N		0	0	0	0	0	0	Y	Y	N	N	N	N	N	N	N	Y	N	N		
Clifford Primary School	Clifford, Hereford	HR3 5HA	71	Jan 14	N		0	0	0	0	0	0	N	N	N	N	N	N	N	N	N	N	N	Remote school. No zig-zags or pavements in vicinity		

School	School info			School crossing patrol	Crossings						Access to school						Traffic management										
	School Address	Postcode	Pupil numbers		School travel plan date of latest draft	School crossing patrol (Y/N)	Detail	Tactiles and drop kerb	Pedestrian refuge	Zebra crossing	Pelican crossing	Toucan crossing	Other	Pavements leading to school (Y/N)	Missing pavement link (Y/N)	Off road paths (Y/N)	Available for cyclists (Y/N)	Cycle racks (Y/N)	Prevent waiting shelter (Y/N)	Cycling lane (Y/N)	Traffic humps (Y/N)	20mph speed limit (Y/N)	Raised plateau (Y/N)	Zig-zags Unenforceable	Zig-zags Enforceable	Other	
Rural schools																											
Colwall C.E. Primary School	Colwall, Malvern, Worcs.	WR13 6DU	185	Oct 11	N		0	0	0	0	0	0	Y	N	Y	N	Y	Y	N	N	N	N	N	Y	N	N	
Cradley C.E. Primary School	Cradley, Malvern, Worcs.	WR13 5LL	99	June 14	N		2	0	0	0	0	0	Y	N	N	N	Y	N	N	N	N	N	N	N	N	N	
Dilwyn C.E. Primary School	Dilwyn, Herefordshire	HR4 8HR	53		N		0	0	0	0	0	0	N	Y	Y	N	N	N	N	N	N	N	N	N	N	N	
Eardisley C.E. Primary School	Eardisley, Herefordshire	HR3 6NS	87	June 14	N		1	0	1	0	0	0	Y	Y	N	N	Y	Y	N	N	N	N	N	Y	N	N	
Eastnor Parochial Primary School	Eastnor, Leicestershire	HR8 1RA	80	0	N		0	0	0	0	0	0	Y	Y	N	N	N	N	N	N	N	N	N	N	N	N	
Ewyas Harold Primary School	Ewyas Harold, Herefordshire	HR2 0EY	122	June 14	N		0	0	0	0	0	0	Y	Y	N	N	Y	N	N	N	N	N	N	N	N	N	
Garway Primary School	Garway, Herefordshire	HR2 8RQ	48	Nov 11	N		0	0	0	0	0	0	Y	N	N	N	N	N	N	N	N	N	N	N	N	N	
Goodrich C.E. Primary School	Goodrich, Ross-on-Wye	HR9 6HY	114	Sept 11	N		1	0	0	0	0	0	Y	Y	Y	N	Y	N	N	N	N	N	Y	N	N	N	
Gosley Goffs Endowed Primary School	Gosley, Ross-on-Wye	HR9 7SE	174	March 14	Y	Monitors B4221 road.HC funded	3	0	0	0	0	0	Y	N	N	N	Y	Y	Y	N	N	N	Y	Y	N	N	
Ivington C.E. Primary School	Ivington, Herefordshire	HR6 0JH	84	2014	N		0	0	0	0	0	0	Y	N	N	N	Y	N	N	N	N	N	Y	Y	N	N	

School	School info			School crossing patrol				Crossings						Access to school						Traffic management							
	School Address	Post code	Pupil numbers	School travel plan date or latest draft	School crossing patrol (Y/N)	Detail	Tactiles and drop kerb	Pedestrian refuge	Zebra crossing	Pelican crossing	Toucan crossing	Other	Pavements leading to school (Y/N)	Missing pavement (Y/N)	Off-road paths (Y/N)	Available for cyclists (Y/N)	Cycle racks (Y/N)	Parent waiting shelter (Y/N)	Cycling lane (Y/N)	Traffic humps (Y/N)	20mph speed limit (Y/N)	Raised plateau (Y/N)	Zig-zags (Y/N)	Zig-zags (Enforceable)	Other		
Ruralschools																											
Kings Caple Primary School	Kings Caple Ross-on-Wye	HR1 4TZ	40	June 14	N		0	0	0	0	0	0	N	Y	N	N	N	N	N	N	N	N	N	N	N	N	N
Kingsland C.E. Primary School	Kingsland, Herefordshire	HR6 9QN	151		N		0	0	0	0	0	Y	N	N	N	N	Y	N	N	N	N	N	Y	N	N	N	N
Kingstone & Throxton Primary School	Kingstone, Herefordshire	HR2 9HJ		Nov 13	Y	Monitors B4349 road. School funded	1	0	0	0	0	Y	Y	Y	N	Y	Y	N	Y	Y	N	N	Y	N	N	N	N
Kington Primary School	Mill Street, Kington	HR5 3AL	208	Oct 14	N		0	0	0	0	0	Y	N	Y	N	Y	N	N	N	N	N	N	Y	N	N	N	One way system on roads surrounding schools
Lea C.E. Primary School	Lea, Ross-on-Wye	HR9 7JY	101	Feb 13	Y	Monitors outside school. School funded	11	0	0	0	0	Y	N	N	N	Y	Y	N	N	N	N	N	Y	N	N	N	
Ledbury Primary School	Lonacre, Ledbury	HR8 2BE	503	Dec 14	Y	Monitors Orchard lane. School funded	2	0	0	0	0	Y	N	Y	Y	Y	Y	N	N	N	N	N	Y	N	N	N	One way system for drop off and pick up
Leintwardine Endowed Primary School	Leintwardine, Craven Arms	SY7 0LL	97	Sept 13	N		0	0	0	0	0	Y	N	N	N	Y	Y	N	N	N	N	N	Y	N	N	N	
Leominster Junior School	Hereford Road, Leominster	HR6 8JU	635	July 12	Y	Monitors Hereford Road, H.C funded	0	0	1	0	0	Y	N	Y	N	Y	N	N	N	N	N	N	N	Y	N	N	One way drop off system fronting school
Little Dewchurch	Little Dewchurch, Herefordshire	HR2 6PN	71	June 14	N		0	0	0	0	0	Y	Y	N	N	Y	N	N	N	N	N	N	Y	N	N	N	
Llangrove C.E. Primary School	Llangrove, Ross-on-Wye	HR9 6EZ	46	Nov 11	N		0	0	0	0	0	N	N	N	N	Y	Y	N	N	N	N	N	N	N	N	N	N

School	School info			School crossing patrol			Crossings					Access to school					Traffic management									
	School Address	Post code	Pupil numbers	School travel plan date of latest draft	School crossing patrol (Y/N)	Detail	Tactiles and drop kerb	Pedestrian refuge	Zebra crossing	Pelican crossing	Toucan crossing	Other	Pavements leading to school (Y/N)	Missing pavement link (Y/N)	Off road paths (Y/N)	Available for cyclists (Y/N)	Cycle racks (Y/N)	Parent waiting shelter (Y/N)	Cycling lane (Y/N)	Traffic humps (Y/N)	20mph speed limit (Y/N)	Raised plateau (Y/N)	Zig-zags Unenforceable	Zig-zags Enforceable	Other	
Rural schools																										
Longtown Primary School	Longtown, Herefordshire	HR2 0LE	45	2008	N		0	0	0	0	0	0	Y	N	N	N	Y	N	N	N	N	N	Y	N	N	
Lucton School (private school)	Lucton, Herefordshire	HR6 9PN			N		0	0	0	0	0	N	N	N	N	N	N	N	N	N	N	N	N	N	N	
Luston Primary School	Luston, Leominster	HR6 0EA	94	July 14	N		0	0	0	0	0	Y	N	N	N	N	N	N	N	N	N	N	Y	N	N	
Madley Primary School	Madley, Hereford	HR2 9PH	185	March 14	N	Y	0	0	0	0	0	Y	Y	N	N	N	N	N	N	N	N	N	Y	N	N	
Marden Primary School	Marden, Herefordshire	HR1 3EW	83	Sept 13	N		11	0	0	0	0	Y	N	N	N	N	Y	Y	N	N	N	N	Y	N	N	
Michael church Escley	Michael church Escley, Herefordshire	HR2 0PT	55		N		0	0	0	0	0	N	Y	N	N	Y	Y	N	N	N	N	N	N	N	N	
Mordiford C.E. Primary School	Mordiford, Herefordshire	HR1 4LW	151	Nov 11	Y	Unknown road monitored. School funded	0	0	0	0	0	Y	Y	Y	N	N	Y	N	N	N	N	N	Y	N	N	
Much Birch C.E. Primary School	Much Birch, Herefordshire	HR2 8HL	192	2010	N		8	1	0	0	0	Y	N	Y	N	Y	N	N	N	N	N	N	Y	N	N	
Much Marcle C.E. Primary School	Much Marcle, Herefordshire	HR8 2LY	101	2010	N		0	0	0	0	0	Y	Y	N	N	Y	N	N	N	N	N	N	Y	N	N	
Orleton C.E. Primary School	Orleton, Ludlow, Shropshire	SY8 4HQ	200	Oct 11	N		0	0	0	0	0	Y	Y	Y	N	Y	N	N	N	N	N	N	N	N	N	

School	School info			School crossing patrol				Crossings					Access to school							Traffic management							
	School Address	Post code	Pupil numbers	School travel plan latest draft	School crossing patrol (Y/N)	Detail	Tactiles and drop kerb	Pedestrian refuge	Zebra crossing	Pelican crossing	Toucan crossing	Other	Pavements leading to school (Y/N)	Missing pavement (Y/N)	Off-road paths (Y/N)	Available for cyclists (Y/N)	Cycle racks (Y/N)	Parent waiting area (Y/N)	Cycling lane (Y/N)	Traffic humps (Y/N)	20mph speed limit (Y/N)	Raised plateau (Y/N)	Zig-zags (Unenforceable)	Zig-zags (Enforceable)	Other		
Rural schools																											
Pembridge C.E. Primary School	West Street, Pembridge	HR69DU	96		N		0	0	0	0	0	0	Y	Y	Y	N	N	Y	N	N	N	N	N	N	N	N	N
Pencombe C.E. Primary School	Pencombe, Bromyard	HR74SH	52	May 12	N		0	0	0	0	0	Y	Y	N	N	Y	N	N	N	N	N	N	Y	N	N	N	
Shobdon Primary School	Shobdon, Leominster	HR69LX	73	Jul 05	N		2	0	0	0	0	Y	N	Y	N	N	N	N	N	N	N	N	Y	N	N	N	
St James' C.E. Primary School	Kimbolton, Herefordshire	HR60HQ	84		Y	Monitors Harold Street/Green Street, HC funded	0	0	0	0	0	Y	N	N	N	Y	N	N	N	N	N	N	Y	N	N	N	
St Joseph's Primary School	The Avenue, Ross-on-Wye	HR95AW	98	Jul 14	N		1	0	0	0	0	Y	N	Y	N	Y	N	N	N	N	N	N	Y	N	N	N	
St Mary's C.E. Primary School	Fownhope, Herefordshire	HR14PG	142	Sept 11																							
St Michael's C.E. Primary School	Bodenham, Herefordshire	HR13JU	104	Sept 14	N		0	0	0	0	0	N	Y	N	N	Y	N	N	N	N	N	N	N	N	N	N	
St Peter's Primary School	Winslow Road, Bromyard	HR74UY	191		N							Y	N	Y	N	Y	Y	N	N	N	N	Y	N	Y	N	N	
St Weonards Primary School	Mount Way, St Weonards	HR28NN	35	July 12	N		0	0	0	0	0	Y	Y	N	N	N	Y	N	N	N	N	N	N	N	N	N	
Staunton-on-Wye Endowed Primary School	Staunton-on-Wye, Herefordshire	HR47LT	70	June 13	N		1	0	0	0	0	Y	Y	Y	N	Y	Y	N	N	N	N	Y	N	Y	N	N	

School	School info			School crossing patrol		Crossings						Access to school						Traffic management									
	School Address	Postcode	Pupil numbers	School travel plan date of latest draft	School crossing patrol (Y/N)	Detail	Tactiles and drop kerb	Pedestrian refuge	Zebra crossing	Pelican crossing	Toucan crossing	Other	Pavements leading to school (Y/N)	Missing pavement (Y/N)	Off road paths (Y/N)	Available for cyclists (Y/N)	Cycle racks (Y/N)	Parent waiting shelter (Y/N)	Cycling lane (Y/N)	Traffic humps (Y/N)	20mph speed limit (Y/N)	Raised plateau (Y/N)	Zig-zags Unenforceable	Zig-zags Enforceable	Other		
Rural schools																											
Stoke Prior Primary School	Leominster	HR60ND	86	March 14	N		0	0	0	0	0	0	N	Y	N	N	Y	Y	N	N	N	N	N	Y	N	N	
Sutton Primary School	Bayley Way, Sutton St. Nicholas	HR1 3SZ	66	July 13	N		0	1	0	0	0	0	Y	N	Y	N	Y	N	N	N	N	N	Y	N	N	Part time 20mph	
Walford Primary School	Walford, Res-on-Wye	HR9 5SA	175	Nov 13	N		0	0	0	0	0	0	Y	N	N	N	N	N	N	N	N	N	N	N	N	Part time 20mph	
Wellington Primary School	Wellington, Herefordshire	HR4 8AZ	93	Oct 13	N		0	0	0	0	0	0	Y	N	N	Y	N	N	N	N	N	N	Y	N	N		
Weobly Primary School	Weobly, Herefordshire	HR4 8QL	306	Oct 14	N		1	0	0	0	0	0	Y	N	Y	N	Y	N	N	N	N	N	Y	N	N		
Weston-under-Penyard Primary School	Weston-under-Penyard, Res-on-Wye	HR9 7PA	90	July 14	N		0	0	0	0	0	0	Y	Y	N	N	N	N	N	N	N	N	N	N	N		
Whitchurch Primary School	Whitchurch, Herefordshire	HR9 6DA	105	October 14	N		1	0	0	0	0	0	Y	N	N	Y	Y	N	N	N	N	N	Y	N	N		
Wigmore Primary School	Wigmore, Herefordshire	HR6 9UW	134		N		1	0	0	0	0	0	Y	Y	Y	N	N	N	N	N	N	N	Y	N	N	White no parking markings	
Secondary schools																											
Aylestone High School	Broadlands Business Lane, Hereford	HR11 1HY	608		N		0	0	1	0	0	0	Y	Y	Y	N	Y	N	Y	N	N	N	N	N	N		
Earl Mortimer College	South street, Leominster	HR6 8JJ	577		N		0	0	0	1	0	0	Y	N	N	N	N	N	N	N	N	N	Y	N	N		

School	School info			Crossings					School crossing patrol			Access to school					Traffic management									
	School Address	Post code	Pupil numbers	School trip plan latest draft	School crossing (Y/N)	Detail	Tactiles and drop kerb	Pedestrian refuge	Zebra crossing	Pelican crossing	Toucan crossing	Other	Pavements ready to school	Missing pavement	Off-road paths	Available forists	Cycle racks	Parent waiting spaces	Cycling	Traffic lights	20mph limit	Raised pavement	Zig-zags (unelectrifiable)	Zig-zags (electrifiable)	Other	
Secondary schools																										
Lady Hawkins High School	Park View, Kingston	HR5 3AR	481	N	N	0	0	0	0	0	0	0	Y	N	Y	N	Y	N	N	N	N	N	Y	N	N	
Fairfield High School	Peterchurch Herefordshire	HR2 0SG	448	N	N	0	0	0	0	0	0	N	Y	N	N	Y	N	N	N	N	N	N	N	N	N	
Kingstone High School	Kingstone Herefordshire	HR2 9HW	616	N	N	5	0	0	0	0	0	0	Y	Y	Y	N	Y	N	N	Y	N	N	Y	N	Priority give-way on B4349	
QE Bromyard	Bromyard Herefordshire	HR7 4QS	298	N	N	0	0	0	1	0	0	Y	Y	N	N	N	N	N	N	N	N	N	Y	N	N	
Bishop of Hereford's Bluecoat School	Hampton Lane, Hereford	HR1 1UU	1180	N	N	3	0	1	1	0	0	Y	Y	Y	N	Y	N	N	Y	Y	N	Y	N	N	N	
St Mary's R.C. High School	Lugwardine Herefordshire	HR14 DR	691	N	N	2	0	0	0	0	0	Y	Y	N	N	Y	N	N	N	N	N	N	Y	N	N	
The Hereford Academy	Melbrook Road, Hereford	HR2 7NG	652	N	N	3	0	2	0	1	0	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	N	N	N	
The John Kyle High School	Ledbury Road, Ross-on-Wye	HR9 7ET	1277	2012	N	0	0	0	1	0	0	Y	N	Y	N	Y	Y	N	Y	N	N	N	N	N	N	
The John Masefield High School	Mabel's Furlong, Ledbury	HR8 2HF	882	N	N	2	0	1	0	0	0	Y	N	Y	N	Y	Y	N	N	N	N	N	N	N	N	
Steiner Academy	Much Dewchurch Herefordshire	HR2 8DL	311	April 12	N	N	Y	Y	Y	Y	N	N	Y	Y	N	Y	Y	N	N	N	N	N	N	N	N	

School info			School crossing patrol				Crossings						Access to school						Traffic management							
School	Post code	Pupil numbers	School travel plan date of latest draft	School crossing patrol (Y/N)	Detail	Tactiles and drop kerb	Pedestrian refuge	Zebra crossing	Pelican crossing	Toucan crossing	Other	Pavements leading to school (Y/N)	Missing pavement link (Y/N)	Off road paths (Y/N)	Available for cyclists (Y/N)	Cycle racks (Y/N)	Parent waiting shelter (Y/N)	Cycling lane (Y/N)	Traffic humps (Y/N)	20mph speed limit (Y/N)	Raised plateau (Y/N)	Zig-zags Unenforceable (Y/N)	Zig-zags Enforceable (Y/N)	Other		
Secondary schools																										
Weobley High School	HR4 8ST	480		N		1	0	0	0	0	0	Y	N	Y	N	Y	N	N	N	N	N	N	Y	N	White no parking markings	
Wigmore High School	HR6 9UW	459		N								Y	Y	Y	N	Y	N	N	N	N	N	Y	N	One way system in place		
Whitecross High School and Specialist Sports College																										
Whitecross High School and Specialist Sports College	HR4 0RN	902		N		1	0	1	0	2	0	Y	N	Y	Y	Y	N	N	Y	Y	Y	N	N	N		
Special Schools																										
Barrs Court School	HR1 1EQ	80		N		10	4	0	0	0	0	Y	N	Y	N	N	N	N	Y	N	N	Y	N	N	Road narrowing	
Blackmiston School	HR2 7NX	57		N		2	0	0	0	0	0	Y	N	Y	N	Y	Y	N	Y	N	N	Y	N	N		
St David's Centre	HR1 2DY	50		N		1	0	1	0	0	0	Y	N	Y	N	Y	N	N	Y	Y	Y	Y	N	N	Traffic islands and road narrowing	
The Brookfield School & Specialist College	HR4 9NG	66	Feb 13	N		1	1	0	0	0	0	Y	N	N	N	Y	N	N	N	N	N	N	N	N	Cycle shared use crossing with refuge	
Westfield School	HR6 8HD	46		N		2	1	0	0	0	0	Y	N	N	N	N	N	N	N	N	N	N	N	N		
The Aconbury Centre	HR2 7RL	24 (max)		N		0	0	0	1	0	0	Y	Y	N	N	Y	N	N	N	N	N	N	N	N		

Sustainable Modes of Transport to School Strategy

Equality Analysis (EIA) Form

A) Description

Name of service, function, policy (or other) being assessed

Sustainable Modes of Transport (SMOTS) strategy

Directorate or organisation responsible (and service, if it is a policy)

Economy, Communities & Corporate Directorate Services , Sustainable Transport

Date of assessment

June 2017

Names and job titles of people carrying out the assessment

Mathew Howells, Senior transport planning officer

Accountable person

What are the aims or main purpose of the service, function or policy? What does it provide and how does it provide it?

The SMOTS outlines how we propose to promote and facilitate sustainable travel to and from schools through road safety education, school engagement and infrastructure delivery.

This SMOTS strategy applies to all pupils of a compulsory school age attending educational facilities within Herefordshire.

Location or any other relevant information

Countywide, specifically within the vicinity of schools.

List any key policies or procedures to be reviewed as part of this assessment.

None

Who is intended to benefit from the service, function or policy?

Primary and secondary school children will be the main beneficiaries from this strategy. All residents will benefit from reduced congestion and better access to education and training. Reduced congestion at peak school arrival and departure times will benefit all residents.

Who are the stakeholders? What is their interest?

Schools- improved access to schools for pupils, reduced congestion around schools and improved safety.

Parents- Improved walking and cycling journeys to schools, improved safety of for children and parents on their travel to schools, improved air quality around schools.

Public Health teams – childhood obesity due in part to lack of exercise is a corporate priority.

B) Partnerships and Procurement

If you contract out services or work in partnership with other organisations, Herefordshire Council remains responsible for ensuring that the quality of provision/delivery meets the requirements of the Equality Act 2010, ie.

- Eliminates unlawful discrimination, harassment and victimisation
- Advances equality of opportunity between different groups
- Fosters good relations between different groups

What information do you give to the partner/contractor in order to ensure that they meet the requirements of the Act? What information do you monitor from the partner/contractor in order to ensure that they meet the requirements of the Act?

The principal delivery partner will be BBLP through the Public Realm contract. This contract and the Annual Plan through which these works will be programmed are subject to its own Equality Impact Assessment and these are scrutinised by the council through its annual consideration of programme.

Are there any concerns at this stage that indicate the possibility of inequalities/negative impacts? For example: complaints, comments, research, and outcomes of a scrutiny review. Please describe:

No. The package schemes are all intended to improve conditions for walking, cycling and public transport. In general, these are modes of transport that are favoured by people who may not be able to afford private car ownership or multiple cars within families. Hence, on balance it is considered that this package will have a positive impact on addressing inequalities.

C) Information

What information (monitoring or consultation data) have you got and what is it telling you?

We undertook an extensive data collection exercise. Within this exercise we did the following activities:

- Parent questionnaire;
- Desktop walking and cycling infrastructure audits;
- Travel plans;
- Accident data analysis;
- Home to school bus travel data;
- Public health England pupil data.

Some of the highlights from the data are:

- 47% of pupils travel to school by car whilst 26% walk and 2% cycle. A further 17% use the bus, comprising both public services and those provided by the Council;
- The main reasons why pupils predominantly travel by car are that journey distances are too long for walking or cycling, and that there are safety concerns
- 16 schools have 20mph limits in the immediate vicinity;
- 75 schools have cycle racks and 17 schools have parent waiting shelters;
- The Council provides bus transport for 3,318 pupils with 284 paying for vacant

- seats;
- 23% of pupils in reception year and 34% of pupils in year 6 are overweight.

D) Assessment/Analysis

Describe your key findings (eg. negative, positive or neutral impacts - actual or potential). Also your assessment of risk.

Strand/community	Impact
Children	A positive impact with aspects of the package providing direct support for travel to school.
Young people and students	The package will improve access to the FE colleges at Aylestone Hill.
Women	It will enable more women and their children to experience the health benefits of active travel.
Disabled	Any new infrastructure projects will consider the needs of disabled users and ensure they can benefit from improved access to schools.
Older People	Walking in particular is a valuable means of maintaining mobility and independence. Some older people may be unable to drive due to health conditions, but creating convivial and connected, comfortable walking and cycling environments will enable them to maintain their independence.
Commuters	Congestion during peak times is a key target for us. By reducing reliance on the private car to access education we will reduce the numbers of vehicles on the road during peak times easing congestion.
Low income groups	The package schemes are all intended to improve conditions for walking, cycling and public transport. In general, these are modes of transport that are favoured by people who may not be able to afford private car ownership or multiple cars within families.

E) Consultation

Did you carry out any consultation?

Yes No

Who was consulted?

Parents and schools were contacted to reply to an online school travel questionnaire where we received data on people's travel habits and current barriers to travel.

We are also undertaking a full consultation exercise on the SMOTS document, our targeted audience includes: schools, governors, councillors, parents, transport operators, delivery

partner, internal colleagues and the wider public.

Describe other research, studies or information used to assist with the assessment and your key findings.

Not at this stage. However, important engineering references and processes which help improve the design and delivery of walking and cycling schemes will be utilised in the design of package schemes. These will inform such elements as shared space, integrating cyclists with pedestrians, ensuring designs provide good access for people with various disabilities. We will continue to monitor for the latest updates and publication for behavioural change projects.

Do you use diversity monitoring categories? Yes **No**

(if No you should use this as an action as we are required by law to monitor diversity categories)

If yes, which categories?

- Age
- Disability
- Gender Reassignment
- Marriage & Civil Partnership
- Pregnancy & Maternity
- Race
- Religion & Belief
- Sex
- Sexual Orientation

What do you do with the diversity monitoring data you gather? Is this information published? And if so, where?

Information on the efficacy of public realm schemes is particularly relevant in terms of whether or not they support younger people and older people and people with disabilities – navigating transport networks can be particularly difficult for these groups and hence we need to understand how they can be best accommodated within delivery of physical transport improvement schemes such as those included in this package.

F) Conclusions

1. Primary and secondary pupils (Including SEN pupils) are the main beneficiary of the strategy, however, all residents in the county will benefit from reduced congestion.
2. We do not believe there to be any negative impacts upon any particular groups of residents. However we will continue to monitor impacts and review the situation as the project progresses.

(I) Taking immediate effect.

(R) Recommended to Council/Directors through a Committee or other Report*.

(S) Added to the Service Plan.

(J) To be brought to the attention of the Equality Manager.

*Summarise your findings in the report. Make the full assessment available for further information.

NB: Make sure your final document is suitable for publishing in the public domain.

Summary of recommendations and responses- Sustainable Modes of Travel to School strategy

Recommendation No. 1	The strategy should clearly link targets to the strategy's aims and objectives and ensure that it showed how actions can deliver on those objectives.				
Executive Response	The table setting out targets will be updated to demonstrate show the link to objectives. (Page 16)				
Action	Owner	By When	Target/Success Criteria	Progress	
Add to SMOTS strategy	Mathew Howells, Senior Transport Planning Officer	December 2017	Reflected in document	Completed	
Recommendation No. 2	The wording in relation to the vacant seat payment scheme should be modified				
Executive Response	The wording regarding the council's vacant seat policy has been updated to provide clarification on how the policy is applied. (Page 10)				
Action	Owner	By When	Target/Success Criteria	Progress	
Amend wording in SMOTS	Mathew Howells, Senior Transport Planning Officer	December 2017	Reflected in document	Completed	
Recommendation No. 3	The strategy should contain a clear timetable for review of the strategy.				
Executive Response	Timetable for review has been added. (Page 19)				
Action	Owner	By When	Target/Success Criteria	Progress	
Timetable added to report	Mathew Howells, Senior Transport Planning Officer	December 2017	Table added	Completed	

Summary of recommendations and responses- Sustainable Modes of Travel to School strategy

Recommendation No. 4	The executive should again be asked to request schools to update their school travel plans making clear to them the potential benefits to schools of doing so and drawing on the support of councillors who are school governors to encourage this work to take place.			
Executive Response	In addition to officers promoting up to date travel plans and providing support directly to schools, local members will also be engaged to promote travel plans in their local communities. (Included in Action Plan at page 16)			
Action	Owner	By When	Target/Success Criteria	Progress
To add to action plan	Mathew Howells, Senior Transport Planning Officer	December 2017	Action implemented	Ongoing

Recommendation No. 5	Officers be requested to liaise with public health colleagues to assist in the development of effective targets.			
Executive Response	Liaison between officers has commenced with officers from public health and this is enabling closer co-ordination between the SMOTS and public health objectives. (Included in the Action Plan at page 16)			
Action	Owner	By When	Target/Success Criteria	Progress
Engage public health colleagues	Mathew Howells, Senior Transport Planning Officer	March 2018	Public Health colleagues engaged	Ongoing
Recommendation No. 6	The executive be asked to ensure that relevant council held data is actively shared with schools to prompt them to share their own data for the SMOTS.			
Executive Response	Any data relevant to the SMOTS will be made available to schools and will be used to help encourage schools to engage in travel planning.			
Action	Owner	By When	Target/Success Criteria	Progress
Share data	Mathew	December	No. of schools engaged	To commence

Summary of recommendations and responses- Sustainable Modes of Travel to School strategy

	Howells, Senior Transport Planning Officer	2019		
Recommendation No. 7	The executive be requested to explore means of data collection for the SMOTS, to seek to secure more robust data to inform policy and assist in prioritising actions, with regard also being had to NHS data.			
Executive Response	The SMOTS has been updated to include the most recent robust school travel data set (Page 9). The action plan addresses how we will explore additional data sources, including NHS data to assist with implementing the SMOTS (Page 16).			
Action	Owner	By When	Target/Success Criteria	Progress
To explore data collection with colleagues	Mathew Howells, Senior Transport Planning Officer	December 2019	We have a robust data set	Ongoing
Recommendation No. 8	Accident information in the strategy and methods of data collection should be clarified			

Summary of recommendations and responses- Sustainable Modes of Travel to School strategy

Executive Response	Accident information is collected by the police using their own reporting system. The accident data is then passed over to the Department for Transport for release to the public. Detailed methodology on how this happens can be found on the Government's website on the link: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/259012/rrcgb-quality-statement.pdf			
Action	Owner	By When	Target/Success Criteria	Progress
N/A			N/A	completed
Recommendation No. 9	The executive be requested to seek support from local MPs to assist in resolving transport issues and that their attention should be drawn to the value that Plasc surveys had previously been in assessing needs			
Executive Response	A letter has been drafted from Cabinet Member for Transport and Roads and from the Cabinet Member for Young People and Children's Wellbeing.			
Action	Owner	By When	Target/Success Criteria	Progress
Send letter to MPs	Jeremy Callard, Transport Strategy Manager	December 2017	Engagement with MPs	Completed
Recommendation No. 10	The executive is requested to ensure that the SMOTS makes clear the evidence used to inform the strategy, the efforts made to secure evidence and any deficiencies in collecting evidence			
Executive Response	Amended within the strategy. (page 9)			
Action	Owner	By When	Target/Success Criteria	Progress
Reflect in document	Mathew Howells, Senior Transport Planning Officer	December 2017	Reflected in document	Completed

Summary of recommendations and responses- Sustainable Modes of Travel to School strategy

Recommendation No.11	The executive be requested to ensure that the capacity and performance measures in the Sustrans contract are aligned to the strategy			
Executive Response	We will review the Sustrans contract to ensure the contract goals will be compatible with the SMOTS. (Included in the Action Plan at page 16)			
Action	Owner	By When	Target/Success Criteria	Progress
N/A			N/A	completed
Recommendation No. 12	The executive is requested to ensure that an implementation plan translating strategy into action was developed to accompany the strategy			
Executive Response	A implementation plan will be developed for delivery to a pilot school by 2019. (Page 16)			
Action	Owner	By When	Target/Success Criteria	Progress
Complete an implementation plan for a pilot school.	Mathew Howells, Senior Transport Planning Officer	December 2019	A completed implementation plan	To commence
Recommendation No. 13	The Sustrans contract was part way through its duration yet the strategy had not been published. The relationship of that work to the strategy needed to be considered to ensure that that work contributed to the delivery of the strategy.			
Executive Response	The Sustrans delivery project was taken into account when developing the SMOTS.			
Action	Owner	By When	Target/Success Criteria	Progress
N/A				

Summary of recommendations and responses- Sustainable Modes of Travel to School strategy



Meeting:	Cabinet
Meeting date:	Thursday 18 January 2018
Title of report:	16-19 Local Authority Commissioned SEN School: agreement to lease former Broadlands Primary School site
Report by:	Cabinet member young people and children's wellbeing

Classification

Open

Decision type

Key

This is a key decision because it is likely to result in the council incurring expenditure which is, or the making of savings which are, significant having regard to the council's budget for the service or function concerned. A threshold of £500,000 is regarded as significant.

This is a key decision because it is likely to be significant having regard to: the strategic nature of the decision; and / or whether the outcome will have an impact, for better or worse, on the amenity of the community or quality of service provided by the authority to a significant number of people living or working in the locality (two or more wards) affected.

Notice has been served in accordance with Part 3, Section 9 (Publicity in Connection with Key Decisions) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

Wards affected

Aylestone Hill; All wards (service)

Purpose and summary

The council was successful in applying for a new government funded special free school to be established in Herefordshire. A competitive process is being undertaken to select the provider for the new school, managed by the council in partnership with the Department for Education (DfE).

Cabinet has previously agreed in principle to provide part of the former site of Broadlands

Further information on the subject of this report is available from
Andrew Hind, Tel: 01432 260920, email: andrew.hind@herefordshire.gov.uk

Primary School to enable the creation of a new post 16 special school, to be created and funded through the government's free school programme. This report confirms that the council will provide the site to enable the new school building to be constructed.

It is recommended that the management of the construction project be undertaken by the Education and Skills Funding Agency (ESFA), rather than Herefordshire Council in order to minimise any financial risk to the council.

It is further recommended that Cabinet approves the retention of the part of the former Broadlands Primary School site not required for the new school for other education purposes or development, subject to future decisions being taken including ensuring that full access is available to the retained area(s).

Recommendation(s)

That:

- (a) the director for children's wellbeing be authorised to agree heads of terms between the council and the Education and Skills Agency (ESFA) (on behalf of the Secretary of State) for the construction of a building to accommodate the new 16-19 Local Authority Commissioned SEN School**
- (b) subject to the approval of the Secretary of State for Education to the appointment of a provider to:**
 - a. agree that part of the land identified at appendix 1 be approved for use by the appointed provider for a period of up to 125 years,**
 - b. the director for children's wellbeing, following consultation with the solicitor to the council and chief finance officer, be authorised to take all operational decisions necessary to make the site available, including the agreement of a lease of up to 125 years for part of the former Broadlands site (as shown on the plan at appendix 1) of an area sufficient for a special school of 50 pupils to the successful promoter, the area being no less than 1 hectare as recommended in DfE Building Bulletin 104 – "Area Guidelines for SEND and Alternative Provision", the remaining land to remain in the ownership of the council**
- (c) the ESFA be requested to deliver the building project at its own risk with funding provided by the Secretary of State.**

Alternative options

1. The council could withdraw from the programme of new special free schools. This would mean that children and families in Herefordshire would not benefit from the proposed 16+ special free school, and would have no realistic alternative means of providing the same benefits from council resources. The council would be able to benefit from the site of the former Broadlands Primary School by selling it for development purposes. This option is not recommended as the value of the government investment in a new school would be significantly greater than the lost receipt.
2. An alternative site could be considered. This option is rejected as the council does not own or control an alternative site of sufficient area (one hectare) centrally located in

Hereford, with ready accessibility to mainstream post 16 provision. The process to select a provider has been conducted on the basis that the old Broadlands Primary School site would be made available; after Cabinet previously agreed to this “in principle”. Identifying another site at this stage would be extremely disruptive and might lead to the Secretary of State excluding Herefordshire from the current programme.

3. An alternative approach would be for the council to deliver the construction of the new school building. Although the funding would still be provided by the ESFA, the risks associated with the project would rest with the council. These would include cost risks and risks associated with late delivery. This has been rejected in order to reduce risks to the council.
4. A report setting out the appraisal of alternative sites is set out at Appendix 2, and these are discussed in the following section.

Key considerations

5. The Department for Education announced on 27 July 2017 that 19 councils, including Herefordshire Council, had been successful in applying for the opportunity of having new special free schools in their areas. Free schools are academies (state-funded independent schools) which can be run by a range of different organisations.
6. In accordance with free school legislation, the provider of a new free school is determined through a competition process. Herefordshire Council has been running that process in partnership with the DfE and it is expected that the Secretary of State will announce all 19 successful providers in early spring 2018.
7. Whilst the cost of providing a new building is met by the DfE, the council is expected to provide a suitable site. Herefordshire Council identified the site of the former Broadlands Primary School in Hereford and Cabinet agreed to its use in principle by its decision of 22 June 2017. Site details have been provided to DfE, ESFA and competing providers.
8. Broadlands Primary School relocated to alternative buildings on the adjacent Aylestone School site in 2015. Since then the old site and buildings have not been used for education purposes, although the Bright Sparks nursery has continued to operate from the old Broadlands building as a tenant. The decision to relocate Broadlands assumed a capital receipt would be obtained by the sale of the old site. If the site is used for the free school then that receipt would be lost or reduced.
9. Officers are working with the management of Bright Sparks to identify an alternative location as they are currently operating from the site. Continued efforts will be made to identify a suitable site in north Hereford.
10. The new free school would require approximately half the old Broadlands site to meet the minimum area for a 50 place special school (one hectare). This would leave half the site available for other purposes, which could include a reduced capital receipt from selling the site or the development of further educational facilities in due course. This report does not address future use of the remaining site, other than recommending that the boundaries of the site be leased to the free school are drawn in such a way as to not restrict the usage of the remaining part of the site.
11. The proposed free school would provide 50 places for young people aged 16 to 19 with special educational needs (SEN); principally, severe learning difficulties, profound and multiple learning difficulties and autistic spectrum disorders. This would replace and add

to provision for these types of SEN in existing special schools in the county in modern buildings constructed to current recommended standards and meet forecast demand for the future.

12. The new free school will not be able to proceed unless the council can give a very strong assurance to the DfE and ESFA that the site is available. This report therefore recommends making the site available for a period of up to 125 years. If the council was not to give such assurance, the Secretary of State would be unable to confirm that the free school project could go ahead.
13. The recommendations stipulate that the Secretary of State's approval of a free school and the agreement of heads of terms between the council and ESFA, for the contract to deliver the new school, are obtained before a lease is concluded, to protect the council's interest and ensure the project is deliverable before entering into such a commitment.
14. Officers in the council's property services have conducted a review of potential alternative sites in the council's ownership to enable Cabinet to be assured that offering part of the former Broadlands Primary Schools site is the best option. Such a site would need to meet the following criteria:
 - a. it would need to have an area of no less than one hectare to meet the minimum total site area set out in the DfE's building bulletin 104 – Area Guidelines for SEND and Alternative Provisions.)
 - b. it would need to be located in Hereford to enable ready access for pupils from all parts of the county
 - c. it would be advantageous for it to be located close to existing mainstream post 16 providers to enable joint working and support for a broad curriculum offer
15. None of the alternative sites owned or controlled in Hereford reach the minimum site area required by the DfE, so on those grounds alone no other site could reasonably be offered as an alternative. In addition, none are located as close to Hereford Sixth Form College, Hereford College of Arts and Herefordshire and Ludlow College as the old Broadlands site.
16. There are no reasonable grounds to substitute another site for the current identified site, and to do so would be likely to jeopardise the approval of any free school for Herefordshire. The investigation of alternative sites is intended to assure Cabinet that the selection of the former Broadlands site is the best option and that this should be confirmed to DfE and ESFA.
17. The cost of the construction of the new free school building will fall to the ESFA on behalf of the Department for Education. Councils are given the choice of allowing the ESFA to manage the construction project or alternatively self-deliver it themselves, whereby the council is granted a fixed sum to deliver the project.
18. The advantages of self-delivery is that the council has greater control of the construction process, including the design of the building. This however comes at the risk of the council bearing the project costs, including timely delivery, quality and any overspend.
19. The advantage of using the ESFA to deliver the project is that all risks are transferred to them. The disadvantage, as stated, is reduced control over the design of the building, other than as planning authority and a key stakeholder and consultee.

20. On balance, it is recommended that the ESFA delivery option is chosen in order to minimise risk to the council.

Community impact

21. The proposed free school will benefit the whole community of Herefordshire. It will directly serve young people aged 16 to 19 with a range of special educational needs, including severe learning difficulties, profound and multiple learning difficulties and autistic spectrum disorders. By locating the new school on a site adjacent to Aylestone School and in close proximity to Hereford Sixth Form College, Hereford College of Arts and Herefordshire and Ludlow College, there will be opportunities for collaboration with mainstream education providers. The site is also within reasonable walking distance of the transport hubs for pupils who are able to travel independently, thus making it accessible from other parts of the county.

Equality duty

22. 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.
23. 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. As this is a decision on back office functions, we do not believe that it will have an impact on our equality duty.
24. A new post 16 special free school will provide improved educational and vocational opportunities to young people with a range of needs, including disability, which is a protected characteristic under the Act. As such, this is designed to enhance the equality of opportunity in terms of employment and other outcomes for adult life. It will provide modern, high quality accommodation to Department for Education specified standards. The building will conform to all applicable standards for accessibility under the Act. The school will provide services to young people with all protected characteristics defined in the Act, including gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex, and sexual orientation.

Resource implications

25. The Department for Education is planning 19 new special free schools across England. Herefordshire Council was successful in its bid for one of these to be in the county. The new free schools will be built at the expense of the Department for Education through the Education and Skills Funding Agency (ESFA). The cost of the construction will be met by the ESFA and the council's contribution will take the form of the provision of the site.

26. The site identified when the council bid to be part of the programme was that of the former Broadlands Primary School, which was relocated to refurbished buildings on the Aylestone School campus in September 2015. The decision to relocate Broadlands stated that some of the costs were to be met through a capital receipt from the sale of the school's former site. The estimated valuation of the land at that time (summer 2015) was £2million, subject to market conditions. The final cost of the Broadlands Primary School relocation was £1,276k. This was made up of £920k from the approved capital programme, 277k from the schools' capital maintenance budget and £79k s106 contributions.
27. The area required for the new free school is one hectare, approximately half of the total area of the old Broadlands site. This means that half the site would be available for other purposes. This could include a reduced capital receipt if the land was used for development, or it could allow for future development of other linked special educational facilities as part of a campus. This report does not recommend any particular use for the land not required, and leaves that for future consideration and decision. It is nevertheless strongly recommended that the new free school boundary is carefully defined to ensure that future use of the retained part of the site is not restricted.
28. The ESFA offers councils two options for project delivery – direct delivery by the ESFA or self-delivery by the council. Whichever organisation delivers the project would bear the associated risks, including that of controlling project costs. It is recommended that the ESFA delivers the Herefordshire project to minimise risk to the council.
29. In addition to the cost of construction, there are considerable managerial overheads associated with any project, some of which are not possible to capitalise, and are hard to quantify in advance. Such overheads would not be incurred by the council through the ESFA direct delivery option.
30. The ESFA has its own procurement frameworks in place and will have the advantage of simultaneously procuring all 19 projects across England. Thus it should be able to obtain best value from contractors.
31. The full details of arrangements for the project will not be known until heads of terms are agreed between the council and ESFA. It is understood that the ESFA will bear all construction costs, including preliminary works and the demolition of the former primary school building, and environmental works on site.
32. Revenue funding for free schools is provided through the ESFA and via the usual funding streams for special schools, driven by the number of places commissioned. Revenue costs will fall to the trust or organisation responsible for running the school when open.

Legal implications

33. The council is not yet under a duty to secure the SEN provision the forecast being that this duty will arise in 2020. The power to lease a site to the selected provider of this new free school is provided for in Section 123 (1) Local Government Act 1972. The former Broadlands Primary School site is part of a larger site which registered under Land Registry title number HE29982. The Council is the freehold registered proprietor.
34. A small section of the site ('the Property'), is currently occupied by Brightsparks Nursery. Suitable alternative accommodation for Brightsparks is actively being sought and it is hoped that agreement between the parties can be negotiated and achieved resulting in vacant possession of the Property and hence the whole site.

35. Alongside negotiated arrangements, if alternative accommodation is located, the Council can serve a Notice on Brightsparks under Section 25 of the Landlord and Tenant Act 1954 giving between six and twelve months' notice to vacate the Property using ground S30(1)(d), provision of suitable alternative accommodation. Alternative accommodation must be suitable for the Tenant, having regard to the current circumstances and the Tenant's requirements including the provision of business goodwill and the situation, extent of a facilities afforded by the holding. The offer of alternative accommodation can be made in the covering letter serving the S25 Notice.
36. If it does not prove possible to locate suitable alternative accommodation, an alternative would be to serve Notice under Section 30(1) (f) LTA – Landlord's intention to redevelop. The Landlord must have a firm and settled intention and a reasonable prospect of achieving that intention. Minutes should be available to evidence this, along with amongst other things, plans for the development, financing, and a business plan for future use. Compensation would be payable to Brightsparks if the S30(1)(f) redevelopment ground was relied upon.

Risk management

37. This is a high profile project requiring close working with the Department for Education and the ESFA. There are reputational risks if the council was to be perceived as jeopardising a high profile national programme, which is likely to be the subject of close political scrutiny. It is therefore essential to maintain good channels of communication and excellent relationships with government, and (once appointed) the successful provider. This will be mitigated by nominating project link officers from the council's children's wellbeing directorate and property services.
38. There is a risk to the council in respect of the tenancy of Bright Sparks nursery. Property services are working with the nursery to identify alternative premises in the locality.
39. The council will not be managing the project if the ESFA delivery route is chosen, as recommended. This means that the ESFA will be responsible for risks associated with the cost, timely delivery and quality of the new building. The ESFA will provide project executive and project management services. This reduces the risk to the council considerably. Although, it should be recognised that any school related project could present some risks to the council, if only by public perception. This residual risk will be mitigated by ensuring council officers work closely with the ESFA until the successful completion of the project.

Consultees

40. The successful provider appointed to run the new school is obliged to conduct section 10 consultations with users and the community before the new school opens.
41. Consultations took place with special and mainstream schools and SENDIAS when the bid for Herefordshire to be included in the special free school programme was prepared. Governors and headteachers are supportive of the initiative.
42. Political group consultation has been undertaken and no objections or comments were received. The views of the ward member have been requested and will be reflected before this report proceeds to cabinet.

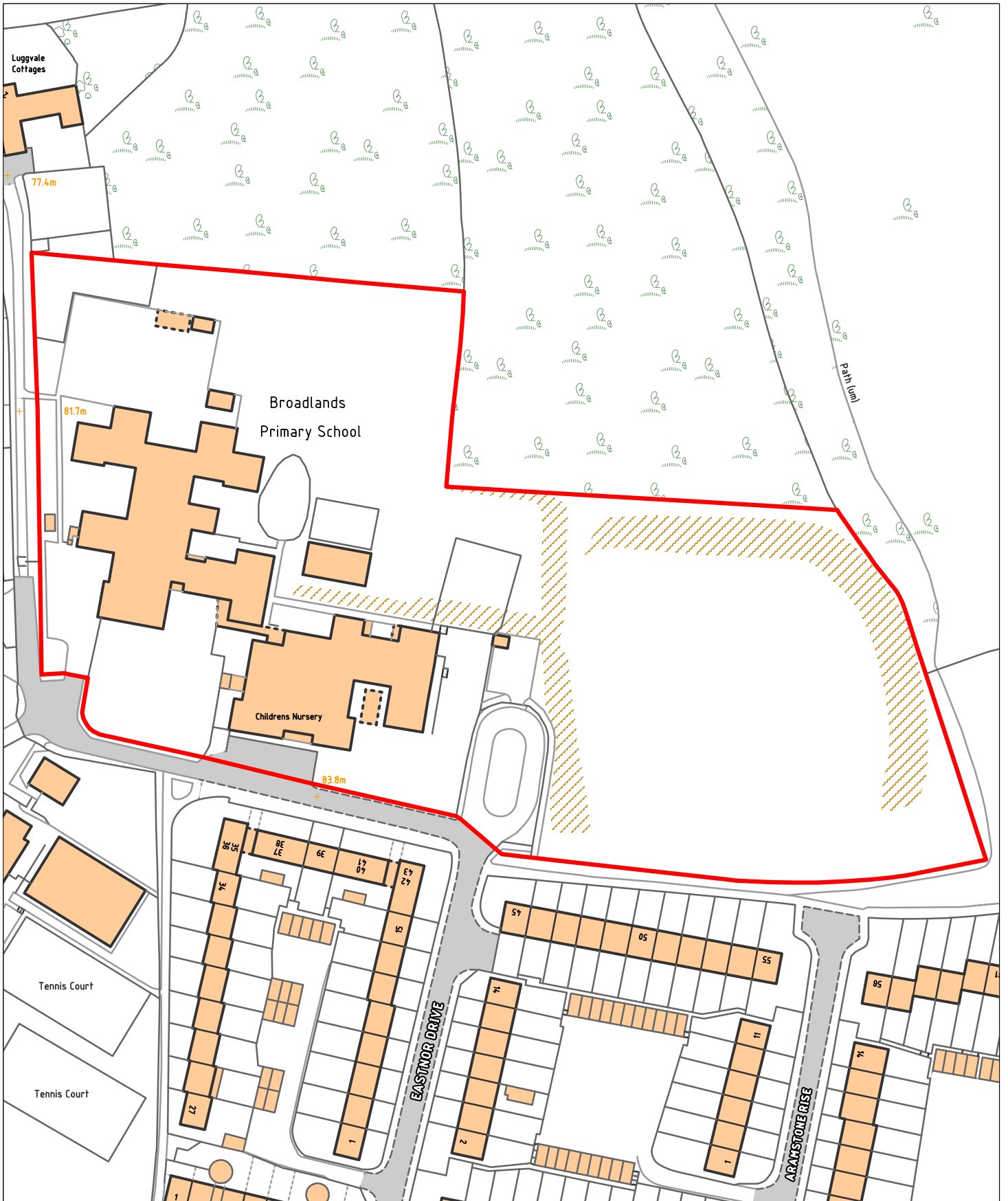
Appendices

Appendix 1: Map of proposed site

Appendix 2: Potential site appraisal

Background papers

None identified



LOCATION PLAN -Hereford_Former_Broadlands_Primary_School_Broadlands_Lane_8CAJ

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SEN FREE SCHOOL – HEREFORD

1 Background

- 1.1 The former Broadlands School whilst not currently used for education purposes by the LEA is largely vacant (aside from continued use of a small part of the property by an independent nursery group) and has not been used for an alternative purpose therefore the site's lawful planning use remains D1. This property has been identified as a potential site for an SEN free school.
- 1.2 Property Services have been asked to identify suitable sites for a new SEN free school which are as centrally placed as possible to minimise the travel distance for 16-19 pupils. Ideally in close proximity to other 16-19 providers and central SEN support services to aid collaborative working and cost efficiencies. The site also needs to be close to road and rail transport links for those young people who are able to travel independently, to encourage and increase development of lifelong learning skills.
- 1.3 The high level site search contained within this report is limited to Hereford and considers estate assets in Council ownership and development land available on the open market.

2 Parameters

- 2.1 DFE guidance documentation has been used to assess the premises requirements and site requirement. . It has been assumed that the minimum gross area is 2.5 acres (1.0 hectares) as provided under DFE Document BB104 Area Guidelines for SEND and Alternative Provision.
- 2.2 No information has been provided regarding the availability of suitable alternative premises or capacity currently in use within the education estate this has therefore not been considered within this report as it understood such evaluation is to be carried out by the Childrens Wellbeing Directorate.
- 2.3 The high level site search has neither fully investigated the planning constraints in respect of each site, nor included a Land Registry title search.

3 Site Search Option Assessment

- 3.1 The identified options and assessment matrix are provided in the table at the end of this report.

4 Valuation

- 4.1 The Broadlands school site has been valued on the basis of residential development at circa £2,000,000, but this valuation needs refreshing given the passing of time and trend in the market locally.
- 4.2 The Former Holme Lacy School has recently been valued at £669,000. Land at the former Whitecross school site (approximately 1.5 acres) is assessed as being in the region of £750,000 on the basis of a restrictive covenant.
- 4.4 The Broadlands site therefore (pending a refreshed valuation) potentially represents the greatest lost opportunity cost in terms of not disposing of property as a development site.

5 Summary

The options available on the open market are limited and not considered viable.

Whilst assumptions have been made as to the size of the SEN free school based upon DFE guidance, Broadlands school has a gross site area of 5.3 acres (2.12 hectares), which is likely to be more than adequate for the required need and a significant part of the site (approximately half) could still be surplus and available for redevelopment. But this assumption doesn't take account of the landscape value of the neighbouring open agricultural land, and this may impact on its value as a development site where it subsequently declared surplus to educational needs due to the need to provide a visual buffer between the built form of the city and its rural hinterland meaning that a significant area of the site may need to remain undeveloped at least at any intensity. The division of the site to enable the development of the SEN free school must be determined so as not to render the retained land unviable in terms of future development.

Of the council owned options aside from the Broadlands school site, on the basis of a high level assessment (summarised in the schedule below), the only other property that stands out as potentially viable is the Robert Owen Free School should it no longer prove viable.

Clearly the option in respect of the Robert Owen School is sensitive but hard to discount if there is uncertainty over the school's future viability. The fact that the premises have been subject to wholesale refurbishment in the past few years warrants serious consideration regarding the potential low cost adaption for a SEN school.

6 Recommendation

Based upon known parameters in respect of the land area required to fulfil the required pupil numbers, the former Broadlands school site represents the best available option for a new SEN school within the Council's ownership assuming that the Robert Owen Free School, should it become available, is not suitable based upon CWB Directorate assessment.

Andy Husband Bsc (Hons) MRICS

OPTION	ADVANTAGES	DISADVANTAGES	SUMMARY
COUNCIL ASSETS			
BROADLANDS - former school site	<ul style="list-style-type: none"> • Availability • Time • No other current planned use • Site area 	<ul style="list-style-type: none"> • Loss of alternative development potential 	Suitable for educational development as a clean site requiring demolition of existing buildings. Suitability of site area subject to enabling future development of surplus land.
ESSEX ARMS – Land	<ul style="list-style-type: none"> • Availability • Access (from Link Road) • Central location • Site area 	<ul style="list-style-type: none"> • Flooding • High abnormal development costs • Time – strategic flood alleviation planning required • Loss of land for housing 	Central and well connected (from summer 2018). Significant flood issues which require planned alleviation. High end value alternative use for land envisaged.
MERTON MEADOW – Land	<ul style="list-style-type: none"> • Availability • Access • Central location 	<ul style="list-style-type: none"> • High abnormal development costs • Neighbouring properties and development • Time – significant enabling works required 	Central and benefits from good access. Competing alternative development proposed. Requires flood mitigation work to develop site.
FORMER WHITECROSS SCHOOL – Playing Field	<ul style="list-style-type: none"> • Availability • Former education use • Alternative use affected by restrictive covenant • Clean undeveloped site 	<ul style="list-style-type: none"> • Neighbouring development • Constrained access (off Baggallay Street) that requires significant civil engineering work to overcome level differences • Does not meet site area requirement 	Adjacent new housing development on ex-school site. Restrictive covenant permits educational use so alternative development options are limited. A ‘clear’ development site, but access will be highly problematic. However, insufficient land area discounts this site.
WIDEMARSH CHILDRENS CENTRE – Land	<ul style="list-style-type: none"> • Underutilised part of site available • Availability 	<ul style="list-style-type: none"> • Suitability in respect of other occupants of the site • Access • Does not meet site area 	Possible conflict/unsuitability of use with present occupants of Children’s Centre. Insufficient land area.

		requirement	
FORMER HOLME LACY SCHOOL – Building	<ul style="list-style-type: none"> • Available – vacant Education building (suitable for refurbishment) 	<ul style="list-style-type: none"> • Location • Neighbouring development/housing • Does not meet site area requirement 	Immediately available and suitable for conversion subject to specification. Location is distant from central Hereford. . However, insufficient land area discounts this site.
ROBERT OWEN SCHOOL – subject to future viability	<ul style="list-style-type: none"> • Existing school • Recent refurbishment/development • Readily changeable at relatively low cost subject to specification. 	<ul style="list-style-type: none"> • Needs agreement with DFE 	Understood to struggling with viability. A recently refurbished building, in a central location, which could present high quality accommodation, subject to CWB assessment and agreement with the DFE.
LAND AT ROTHERWAS – development sites	<ul style="list-style-type: none"> • Various landholdings 	<ul style="list-style-type: none"> • Unsuitable use in commercial/industrial area • D1 use contrary to the objectives of the Enterprise Zone • Location • Planning approval 	Land held for commercial development – planning consent would be a challenge. Not central.
OPEN MARKET			
HOLMER ROAD, HEREFORD – former sports field	<ul style="list-style-type: none"> • Clear site • Freehold 	<ul style="list-style-type: none"> • Commercial/industrial location • Land cost £850k 	Situated in an industrial area. Significant land cost – planning suitability requires investigation.



Meeting:	Cabinet
Meeting date:	Thursday 18 January 2018
Title of report:	Marlbrook Primary extension, feasibility and interim works
Report by:	Cabinet member young people and children's wellbeing

Classification

Open

Decision type

Key

This is a key decision because it is likely to result in the council incurring expenditure which is, or the making of savings which are, significant having regard to the council's budget for the service or function concerned. A threshold of £500,000 is regarded as significant.

This is a key decision because it is likely to be significant having regard to: the strategic nature of the decision; and / or whether the outcome will have an impact, for better or worse, on the amenity of the community or quality of service provided by the authority to a significant number of people living or working in the locality (two or more wards) affected.

Notice has been served in accordance with Part 3, Section 9 (Publicity in Connection with Key Decisions) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

Wards affected

Redhill;

Purpose and summary

To authorise the undertaking of interim works to provide additional classroom space for use by Marlbrook Primary School in Hereford from September 2018 and as a consequence end the use of the site as a multi agency office (MAO).

Further information on the subject of this report is available from
 Andrew Hind, Karen Knight, Tel: 01432 260920, Tel: 01432 383042, email:
 andrew.hind@herefordshire.gov.uk, kknight@herefordshire.gov.uk

Recommendation(s)

That:

- (a) **funding of up to £300k be approved from the capital budget allocated to Marlbrook school to fund the works necessary to create an additional classroom for use by the school in September 2018;**
- (b) **Greencroft ceases to be used as a Multi-Agency Office (MAO) area from 1 March 2018, and**
- (c) **the director for children's wellbeing be authorised to take all operational decisions necessary to implement the above works, including the appointment of a contractor.**

Alternative options

1. No capital investment is made. Additional places for 30 children in reception could not be accommodated at Marlbrook in September 2018. The children would have to be accommodated at another school in South Wye, Hereford. For a number of years there have been more children whose parents have requested a place at Marlbrook than there are places available at the school. While there are other schools in the area that might accommodate these children there are not sufficient places in the appropriate year groups to enable this and parental preference over a number of years has been for places at Marlbrook. There are also indications of a longer term need for places.
2. Provide a permanent build to make Marlbrook a full three form entry school accommodating 630 children. Whilst this may be the long term solution, agreed under the schools capital investment strategy, there is insufficient time to implement this for September 2018.
3. Another mobile could be installed to provide an additional classroom. This would not enable any works to be done to assist with pressures on nursery places at the school, which would be addressed as part of the interim works. The siting of a mobile would also not be considered best value, as it would only be in place for one year, before it is disposed of. The interim solution will continue to be used as the main nursery area for the school even after the extension has been built.
4. The MAO continues to operate from Greencroft. There is insufficient space in the entire Greencroft building (including children's centre) to provide the required facilities and services. There is already a private nursery operating from the site; the school need additional classroom and nursery space and there is an agreement for some children's centre services to continue to operate from the building. There is also a concern that non-DBS checked staff could mix with potentially vulnerable children.

Key considerations

5. Marlbrook Primary School is a council maintained school located in the South of Hereford. It is currently rated Outstanding by Ofsted, and is also a teaching school. The school is a two form entry school with a planned admission number of 60 pupils per year, but has been consistently oversubscribed since 2011.

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andrew.hind@herefordshire.gov.uk, kknight@herefordshire.gov.uk

6. In line with the council's schools capital investment strategy (SCIS) principles, the council has supported the school in its expansion plans through making provision in the 2015 and 2016 capital programme for one permanent and one temporary double classroom respectively, providing sufficient capacity to enable the school to have a third entry class in 2016 and 2017. In approving these arrangements, it was noted that feasibility work would need to be carried out to establish a longer term solution for September 2018.
7. The council's capital programme for 2017/18 includes provision of £2.776m to enable Marlbrook to become a full three form entry school. This provision was based on a provisional estimate of costs, recognising that more detailed feasibility work would need to be carried out to inform any decision to proceed. The feasibility work was authorised by a Cabinet member decision on 30 August 2017.
8. An increase to full three form entry would require six additional permanent classrooms with associated support spaces, increased hall area, staffroom and improved transport arrangements. In doing this, a number of temporary mobiles would also be removed from site. The exact detail for this and solutions in terms of possible transport issues would be considered as part of the feasibility works.
9. Arrangements are required for an additional intake in September 2018 and plans have been drafted to show how this could be accommodated using the Greencroft building. The works would include turning the current Marlbrook nursery areas into a classroom and converting the MAO space into nursery provision, including creating a dedicated outdoor play area. The building works associated with these alterations have been estimated to cost £300k and would continue to be used as nursery classrooms if the permanent build solution went ahead following consideration of feasibility work.
10. The plans will be finalised and tendered in line with the council's contract procedure rules, in January/February 2018 to enable a contractor to be appointed and work on site to commence by April 2018. This will enable completion and occupation of the areas by the school for September 2018.
11. The Multi-Agency Office provides hot desk office space for Herefordshire Council staff. There are approximately twelve workstations organised on traditional office desks and a counter. There are some small meeting rooms. The space is mainly used by children's wellbeing staff working in south Hereford to avoid unnecessary travel time getting to and from offices north of the river and to reduce pressure on office space in main council buildings. However, the workstations are rarely fully utilised. Children's wellbeing and property services officers are working to identify other suitable Herefordshire Council office space, which will enable staff to continue to have access to desk space south of the river

Community impact

12. Marlbrook Primary School is highly valued by the local and surrounding community. It provides high quality education for its children, whilst also supporting adult learning, including for the parents of the school's children. Marlbrook was judged outstanding by Ofsted in 2009, and because of its very positive report no further inspection has been required since then. The school is directly involved in early years provision and works closely with the children's centre and private day nursery based in the Greencroft building. All these activities support the council's Corporate Plan priority and Children and Young People's Plan objective of keeping children and young people safe and giving them a great start in life.

Further information on the subject of this report is available from
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13. The proposal to expand Marlbrook has been prioritised according to the principles set out in the schools capital investment strategy. The requirement for a three form entry school and the data that supported this was considered by Cabinet in the April 2016 report. The total number of reception year (YR) children admitted to schools in south Hereford increased from a low of 174 in autumn 2010 to a current high of 255 in autumn 2017 – an increase of 47%. The total number of statutory age children – that is, those from reception year to year 6 – increased from a low of 1224 in 2010 to a current high of 1625 in autumn 2017 – an increase of 33%.
14. Marlbrook previously had an admissions number of 60 – equivalent to two forms of entry. The school agreed to expand its admissions number to 90 to accommodate a “bulge year” in 2014. Subsequently its admission number has been formally increased to 90. It has filled its reception class to capacity each year. At the same time, Our Lady’s RC Primary School and St Martin’s Primary School in south Hereford have maintained their numbers, and Riverside Primary School has seen significant growth. Marlbrook continues to be a school in high demand and the surrounding primary schools are also experiencing growth in the number of pupils in their early age groups. Previous growth at Marlbrook has been accommodated mainly by the use of mobile classrooms. These have been jointly funded by the school and the council. The intake of next year’s reception will require an additional classroom, and the best way of providing this is by modifying the existing Greencroft building to provide a new classroom and to address serious suitability issues in relation to the current nursery accommodation.
15. The Greencroft building is a free standing building within the school site. It is currently used by the school where its nursery class is situated, by a private day nursery which is a tenant, by Herefordshire Council for the purposes of a Multi-Agency Office, and by a children’s centre.
16. In its decision on the future use of children’s centre buildings agreed by Cabinet on 14 September 2017, the management of the Greencroft Children’s Centre was transferred to Marlbrook Primary School. The children’s centre space will continue to host children’s centre services under the new management arrangements.
17. The day nursery occupies a discrete part of the building and will not be directly affected by the proposed modifications.
18. The school nursery space is not entirely suitable in its current form mainly because of inappropriate toilet facilities for children of that age.
19. The building project proposed in this report will convert the current MultiAgency Office space into improved nursery accommodation with appropriate toilets for pre-school children. The current nursery space will be converted to general teaching space which will be used by statutory age children. The works will comprise internal remodelling and refurbishment. Only minor changes to the external appearance of the building will be required as entrances are modified. Some external works related to access and play space will also be included in the scheme. It is intended the scheme will be completed for handover and occupation before the end of the summer term 2018 for occupation from the start of autumn term 2018.
20. Concerns expressed about vehicle management within the site and the impact on the public highway, are recognised. The works will require access by the contractor’s vehicles. This will be managed by the contractor under the supervision of the council. There may be additional pressure arising from parents delivering and collecting their

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children from school, however this is mainly as a result of the expansion of the school rather than the works to the Greencroft building. The council will work with the school on further developing travel plans to minimise the impact of vehicles either on the school site or the surrounding roads.

21. Responsibility for health and safety during the project will lie with the contractor once appointed and on site who will have their own method statements and risk assessments for the work they will undertake. The site will be kept separated, as far as possible once work has started, from the school and will be kept secured at all times to prevent unauthorised access.

Equality duty

22. 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.
23. 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. Marlbrook serves communities where there is a relatively high percentage of children with special needs. The interim works will be fully compliant with disability legislation and the feasibility work will take into account the needs of pupils with protected characteristics.

Resource implications

24. £2.776m has been approved by full Council for the expansion of Marlbrook. £210k has been committed against the feasibility works for the main extension. A further £300k of this will be used to undertake all the necessary works to provide an additional classroom required for September 2018.

Estimated build cost	£ 250k
Professional fees	£ 25k
Contingency	£ 25k
Total cost	£ 300k

25. Any potential further capital works associated with the expansion of Marlbrook Primary School in future years, including the replacement of temporary mobile classrooms, will be subject to a separate decision.

Legal implications

Further information on the subject of this report is available from
Andrew Hind, Karen Knight, Tel: 01432 260920, Tel: 01432 383042, email:
andrew.hind@herefordshire.gov.uk, kknight@herefordshire.gov.uk

26. The council has a duty to secure sufficient schools in its area, such schools will not be regarded as sufficient unless they are able to provide pupils with the opportunity to receive an appropriate education; this includes having appropriate classroom space. Additionally the council has a duty to exercise its functions with regard to providing sufficient schools while taking into account increased options for meeting parental choice (S14 Education Act 1996).
27. Marlbrook Primary School is a community school, which falls within the statutory definition of maintained schools. The duty to provide adequate classroom space is further set out in S22 of the School Standards and Framework Act 1998 which states that the council's duty to main schools extends to making premises available to be used for the purposes of the school. It is an executive decision to decide how to discharge this duty and it is appropriate for cabinet to delegate the operational management of the build to an officer.
28. The building of an additional classroom at this site will be carefully managed in accordance with the council's contract procedure rules, which will require the procurement of a suitable contractor, evaluation award and contract management.

Risk management

29. There is a risk that sufficient classroom space is not made available for September 2018. This will be considered as part of the feasibility work and recommendations will be made on a value for money basis. There is a potential to temporarily use existing building space on site, although the spaces may not be large enough to accommodate an entire class. More than one space could be used per class, at an additional cost of a teacher or teaching assistant to cover the extra spaces.
30. There is a risk that work will have to be done to address transport issues to satisfy planning requirements. This will be identified in the feasibility work.
31. There is a risk that other users of the site, such as the nursery and a residents' association, will be affected by the work. These parties have already been consulted about the proposed extension and will continue to be kept informed as the scheme progresses. Any changes required to their accommodation will be identified in the feasibility work.

Consultees

32. Some consultation work has already begun and included school headteachers, staff and governors, the local ward member Councillor Paul Rone (who is supportive of the scheme), and members of the community.
33. The main comments received referred to the improved provision that would be provided for the school and potential difficulties in terms of an increase in car usage and parking. These will inform the options put forward through the feasibility work.
34. Political groups have also been consulted and no comments have been received

Appendices

None.

Background papers

None identified.



Meeting:	Cabinet
Meeting date:	Thursday 18 January 2018
Title of report:	Pre-Paid Cards Tender
Report by:	Cabinet member health and wellbeing

Classification

Open

Decision type

Key

This is a key decision because it is likely to be significant having regard to: the strategic nature of the decision; and / or whether the outcome will have an impact, for better or worse, on the amenity of the community or quality of service provided by the authority to a significant number of people living or working in the locality (two or more wards) affected.

Notice has been served in accordance with Part 3, Section 9 (Publicity in Connection with Key Decisions) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

Wards affected

(All Wards);

Purpose and summary

To agree the procurement of a financial pre-paid card service to support both the council's adults and wellbeing and children's wellbeing directorates, and the Clinical Commissioning Group, if required, and authorise the director for adults and wellbeing to award a new five year contract implemented from 1 July 2018.

Pre-paid cards are currently used by adult social care clients who have been assessed as having eligible needs and who have chosen to take a direct payment and make their own arrangements to meet those needs. Pre-paid cards provide a more cost-effective way of distributing and monitoring use of allocated funds. The current contract comes to an end in June 2018, and the opportunity has been taken to ensure any new service is also able to meet the needs of children's social care clients.

Recommendation(s)

That:

- a) a financial pre-paid card service available to adults' and children's social care clients, and certain Clinical Commissioning Group clients if required, is awarded through an open procurement and a contract to be issued for a period of up to five years effective from 1 July 2018;
- b) the Director for Adults and Wellbeing is authorised, following consultation with the Director for Children's Wellbeing, to take all operational decisions necessary to implement the above recommendation, including award of contract at a total cost of not more than £132k.

Alternative options

1. To extend the current contract with the existing provider. This is not recommended as when the current provider, PFS, was directly awarded a 12 month contract from 1 July 2017, this was subject to a full competitive tender being undertaken through an open procurement for the period thereafter.
2. To not offer the service. This is not recommended as it removes an element of choice about how adult direct payments are delivered, and the service provides good financial governance for the council. Without the service, adults with a direct payment would have to revert back to a more traditional manual process and this would be cumbersome for both customers and the council and would incur greater costs to the council.
3. For the council to issue a purchase card instead of the pre-paid card for social care customers. This is not recommended as the card would have Herefordshire Council's name on it and not the name of the customer. This is not in line with the personalisation agenda. It also presents an audit risk around disclosure agreements. It is a credit card which is inflexible as customers cannot pay into their account to top it up e.g. personal contributions.

Key considerations

4. The pre-paid card operates as a virtual bank account. Pre-paid cards are issued to eligible customers and the council transfers identified money onto it to meet assessed social care needs. The card can be set up with spend controls and does not allow the customer to overspend beyond their budget.
5. The current pre-paid card service is delivered by PFS, which was directly awarded a 12 month contract from 1 July 2017 to 30 June 2018. A review across both adults' and children's services has identified the opportunity for both directorates to utilise the pre-paid card system for their customers.
6. The card allows real time online auditing to provide additional scrutiny and financial governance by the council for both children's and adults' services. Currently the direct payment team monitor and audit expenditure, this will be made easier across all the

schemes brought into the pre-paid card contract, through the itemised transaction data and customised reports which will ensure proper use of council funds.

7. For people with eligible social care needs, the council can either commission a service itself, or the customer can request a direct payment and then arrange their support themselves. A direct payment is the amount of money that the council pays to the customer to enable them to purchase services to meet their assessed needs.
8. 256 adults use a pre-paid card for their direct payment, which was introduced in 2014. The pre-paid card provides a user friendly mechanism and a greater level of security for the council.
9. The number of direct payment customers grows year on year. The council has a target for 40% of service users to take a direct payment. At the end of March 2017, 38.3% of service users in the community were in receipt of a direct payment. Over the last two years the number of direct payments has increased by 9% per annum and the pre-paid card provides a simple mechanism to support this trend.
10. Of the current adult direct payments (DP), 40% are delivered through the pre-paid card service. The pre-paid card's functionality simplifies the processes and delivers more robust financial monitoring and streamlined mechanisms to reclaim unspent money. With additional cards introduced into current schemes, this opportunity will increase the financial benefits to the council and simplify operating systems to both children's and adult social care customers.
11. A five year contract is recommended due to the complexity of transferring the customer contracts and the internal systems within the council. It is anticipated that this will also bring efficiencies through robust financial monitoring and consolidation of back office functions, whilst encouraging interest from the market.
12. The pre-paid card will offer the council transparency of accounting via online real time access to all direct payments which operate with the pre-paid card. It enables the council to monitor usage (including any misuse). The security of the use of the cards is greater than dedicated bank accounts, as the cards can be set within parameters, and can decline certain transactions, rather than having to pick up inappropriate expenditure after the event. Spend patterns and surpluses can be immediately identified. In addition, any surpluses identified can be reclaimed much more easily than other methods, and the council (after a process of authorisation) has the capability to draw the funds back into its account.
13. The pre-paid card will provide the same mechanism for a direct payment across both children's and adults' social care and so will support effective transition from a customer and family perspective.
14. Pre-paid cards have also proved to be a popular choice for customers as a simple mechanism to operate a direct payment, as the pre-paid card acts as a virtual bank account and can be set up quickly and efficiently.
15. The council can be appointed as a deputy by the Court of Protection to manage the financial affairs of people who lack mental capacity, to ensure that vulnerable clients are not exposed to risk of financial abuse. Herefordshire currently delegates its duty under a contract with Hoople. At present, the process for administering this function uses manual processes. To bring this in scope of the new service will afford greater governance and financial audit to this process, ensuring additional safeguards are in place. This extension

of the use of pre-paid cards has been taken into account when calculating the required contract value.

16. The Clinical Commissioning Group (CCG) currently administers direct payment accounts and has expressed an interest, due to increased scrutiny and audit, in the council carrying out the administration and monitoring of the accounts, potentially by way of a service level agreement. Operational processes and recharges will need to be agreed to enable this to sit within the council's brief and would be subject to the relevant governance processes being agreed at a later date. The contract will be drafted such as to allow this to be done, if required.
17. The council has developed an approved provider framework of contractors who can deliver a back office function to support people to manage their direct payments. This is frequently used where the customer has complex arrangements such as employing a personal assistant. These managed account providers will be strongly encouraged to use the pre-paid card to support this function as it can be operated as a virtual bank account, which will bring the additional benefits of the pre-paid card to customers whilst providing greater financial control to the council.
18. The table below indicates the potential take up of the pre-paid card:

Type of service	Directorate	Numbers in current scheme (1/10/17)	Number of current customers with a pre-paid card	Number of cards per scheme and current numbers / Projected numbers 2018-2019	Total value of spend per scheme per annum based on current numbers
Direct payment-adults/carers	Adults and wellbeing (AWB)	633	162	182	£8,921,254
Direct payment-carers	AWB	101	92	94	£55,283
Direct payment-children	Children's wellbeing (CWB)	64	0	80	£353,000
Targeted short breaks	CWB	78	0	100	£27,300
Court of Protection	AWB	50	0	75	£260,000
Health direct payment	CCG	8	0	20	£480,000
Totals		934	254	551	£10,096,837

19. The pathway re-design for operational processes ahead of utilising the contract will take place within children's wellbeing. This will ensure that internal processes are aligned and there is clarity of roles. Training will be required on the new system and internal awareness training for social work teams to assist the promotion of the pre-paid card to families.

20. The current contract to existing adults and wellbeing pre-paid card holders will run until 30 June 2018. A new provider will be required to start from 1 July 2018; however mobilisation is complex due to data transfer and card set up, so the mobilisation will need a lead in time of two months.
21. Children's schemes for direct payments and targeted short breaks predict an additional 200 cards will be needed, totalling a possible 551 customers. The contract will specify the initial provision of up to 1,000 cards and the initial number transferring to the new contract will be 254. The contract will specify the option to increase as the demand grows.
22. Procurement timetable;

Activity	Key dates
Specification complete	19/1/18
Tender documents prepared	19/1/18
Cabinet decision	18/1/18
Tender opens (4 weeks)	23/1/18
Tender closes	22/2/18
Evaluation (2 weeks)	26/2/18
Letter of intention to award issued	16/3/18
Standstill	16/3/18
Officer decision to award	30/3/18
Award of contract	06/4/18
Mobilisation commences	09/4/18
Start of new service provider	01/7/18

Community impact

23. The pre-paid card is currently offered to all adults taking a direct payment and will be offered to children's social care customers under their set of procedures. In addition, a small number of clients receiving payments from the CCG might be offered the cards, should agreement be reached on handling.
24. The pre-paid card service will enable people to live as independently as possible, in line with the corporate plan 2016-2020 and the adult's wellbeing plan 2017-2020, promoting independence and choice.
25. The corporate plan 2016-2020 has four strategic priorities; the pre-paid card promotes autonomy, choice and control and enables access to universal services, all of which supports the strategic priorities below:
- Enable residents to live safe, healthy and independent lives.
 - Keep children and young people safe and give them a great start in life.
 - Support the growth of our economy.
 - Secure better services, quality of life and value for money.

26. In particular, the extension of the pre-paid card scheme to children will promote and enable access to universal opportunities and services for children with disabilities and their families and ensure a range of provision to meet identified need, as it currently does for adult social care customers.
27. The extension of the pre-paid card into children's services is in line with the corporate plan by "improving commissioning and procurement to deliver greater revenue efficiencies and savings" and "regulatory controls, whilst improving customer experience and access to online services." There are no direct implications for looked after children.
28. The health and wellbeing plan 2017-2020 focuses on "helping people to help themselves" by "re-designing services through collaboration with customers". Ways of working that are grounded on the principle of enablement and micro-commissioning via direct payments form the foundation of this.

Equality duty

29. The pre-paid card scheme and any conclusion of the procurement process will have due regard to:
 - Eliminate discrimination, harassment, victimisation and any other conduct prohibited under this Act;
 - Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - Foster good relations between persons who share a relevant protected characteristic and persons who do not share it in terms of service delivery and in commissioning the service themselves, including the contract monitoring and management.
30. The council is committed to equality and diversity using the Public Sector Equality Duty (Equality Act 2010) to eliminate unlawful discrimination, advance equality of opportunity and foster good relations.
31. An Equality Impact Assessment has been completed for the proposed service, attached to the report as appendix 1.

Resource implications

32. The indicative value of this contract over five years is £132k. Of this, £120k will be from the adults and wellbeing base budget and £12k from children's wellbeing. Since this builds on an existing scheme, there are no significant staffing implications.
33. The pre-paid card also enables greater financial governance and improves visibility and streamlines the systems for the return of unspent money.
34. Reporting of underspends will be one of the key deliverables within the specification. Underspends are investigated to ensure eligible needs are being met and where appropriate the money is brought back into the council budget.
35. The value of the contract is cost neutral when measured against the savings incurred in staff time in handling individual payments through its internal finance function.

36. If the CCG were to become a party to the contract with the provider, this would be on the basis on that organisation meeting the full cost of that element of the service, such that there would be no additional cost to the council.

Legal implications

37. The Care Act 2014 places a duty on councils to provide adults with a personal budget, and an obligation on social services authorities to provide direct payments (sections 31-33 Care Act 2014). Direct payments involve councils transferring money to an individual or someone on their behalf to enable the individual to make arrangements themselves to meet some or all of the individual’s eligible care and/or support needs. The Carers and Disabled Children Act 2000 extended direct payments to certain carers and parents of disabled children. Individuals are not assessed for direct payments, however once a council decides that care and support is required then, unless one of the exemptions apply, the council is required to provide direct payments in lieu of services. The council is under a legal duty to comply with the Care Act 2014 and failure to do so may result in legal challenge.

38. Paragraph 4.6.12 of the council’s contract procedure rules requires that any contract with a lifetime value of between £50,001 and the EU threshold of £164,176 is to be let following the formal tendering procedures set out in paragraphs 4.6.13 to 4.6.13.71 inclusive of the contract procedure rules. As this is a high value contract, open tendering procedures must be followed.

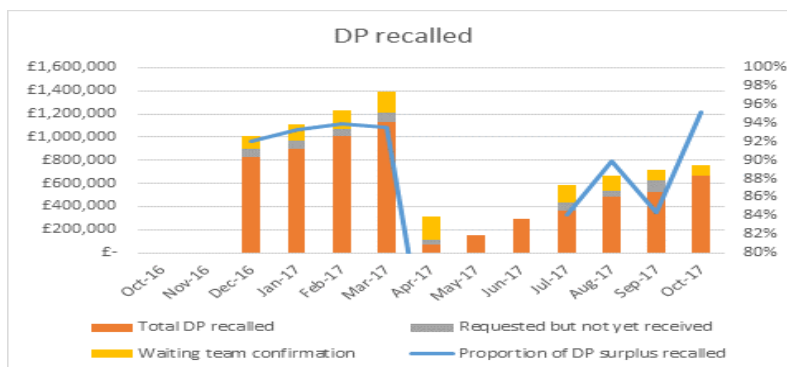
39. The value of the contract of £132k over a five year term is such that an Official Journal of the European Union (OJEU) advertisement is not required, as it’s below the threshold of £589,148.

40. Under public procurement law, the council has considerable flexibility in the procurement procedure it should follow in letting this contract because the subject matter is within the “light touch” regime of the Public Contracts Regulations 2015. The council must conduct a procedure that meets EC Treaty principles (e.g. fairness, equal treatment, transparency) and basic publication requirements.

41. By referencing the CCG as a contracting party when the council procures this service allows the CCG to be able contract with the council’s selected provider. Any future agreement reached between the council and the CCG is currently outside of the remit of this report.

Risk management

42. The table below demonstrates the direct payment surpluses:



Further information on the subject of this report is available from
 Laura Ferguson, Tel: 01432 383873, email: Laura.Ferguson@herefordshire.gov.uk

43. Risk has been identified and will be mitigated as below:

Risk	Mitigation
The implementation of a new way of working will require a re-design of operational pathways in children's wellbeing.	A project manager has been allocated within children's wellbeing and this work is programmed to start in December 2017.
Embedding new processes will have a short term resource implication in terms of staff capacity to implement the new scheme.	A project manager has been allocated within children's wellbeing and this work is programmed to start in December 2017. The pre-paid card will have medium to long term benefits in staff resource utilisation through greater monitoring functions.
The outcome of the pathway work will inform the new workflow in children's wellbeing.	The new pathway will identify any gaps and an action plan will be created to meet training needs and any role re-design.
Implementation of the new pre-paid card contract in children's wellbeing will take time to embed.	Children's wellbeing plan to launch the pre-paid cards within its short breaks service in the first instance, which constitutes simpler administration processes.
Implementation of the new pathway may take some time to deliver and embed into the children's wellbeing direct payment workflow. This may be beyond the start date of the new pre-paid card contract.	The start date for implementation for children's wellbeing pre-paid cards to support direct payments is not interdependent with the contract date, and can be implemented at a later date.
Providers within this marketplace are few in number, which increases the risk of providers failing to tender.	To offer a five year contract provides a more sustainable offer for providers within the market.
Risk of provider sustainability.	The tender process will require the applicant to complete a financial workbook and the council will also undertake a credit check.
Ensuring sound financial control and flexibility to customers as set against the service specification.	This will be achieved through robust contract management.
The tender process needs to keep to time to ensure the new provider is in place by 1 July 2018.	A robust tender process across directorates will also ensure the learning from adults and wellbeing is shared into the children's wellbeing directorate and that the new contractor is fit for purpose and for future growth. The timetable is set out in item 22 above.

Consultees

44. Customers have not been consulted as they will be informed once a new contract is awarded as the intention will be to minimise any disruption to them as much as possible. Other than the change in card provider, customers should not experience any change in the way in which the system operates.
45. Group leader's consultation document was circulated on 16 October 2017. No comments or objections were received.

Appendices

Appendix 1 Equality Impact Assessment

Background papers

None

Equality Analysis (EIA) Form

A) Description

Name of service, function, policy (or other) being assessed

Pre-paid card contract

Directorate or organisation responsible (and service, if it is a policy)

AWB Commissioning

Date of assessment

November 2017

Names and job titles of people carrying out the assessment

Laura Ferguson – Senior Commissioning officer

Accountable person

Martin Samuels, Director Adult and Wellbeing

What are the aims or main purpose of the service, function or policy? What does it provide and how does it provide it?

To ensure that autonomy and choice are promoted in relation to Direct Payments and targeted short breaks in AWB and CWB services. The pre-paid card scheme provides a mechanism for social care customers, as well as a transparent tool where the council has access to real time monitoring and provides simplicity if use and increased financial scrutiny.

The pre-paid card is proving to be a popular choice with current adult Direct Payment customers as a user friendly way of providing access to social care money with which to purchase support. Following an assessment of eligibility, the funds would be provided to a virtual bank account, managed by a card provider with online access to the individual accounts by the council.

The key functions of the card are to:-

- Provided options for a simplified system for delivering social care money. This has been used successfully to deliver Direct Payment's in AWB since 2014 by loading pre agreed money (individual budget) in line with eligibility to access social care services to purchase social care services to meet assessed need.
- The card is user friendly, and doesn't require onerous book keeping or payments to managed account providers. The system is quick to set up and accessible with limited accounts management requirements as information is available online.
- No bank account is required; the card operates as a virtual bank account and

is very flexible and easy to use.

- The council has oversight of the bank accounts via the Direct Payment monitoring team. The auditing mechanisms link to Herefordshire council and provide sound financial governance, accountability and reporting.
- Mechanisms are in place to allow visibility and with authority, the council can access to clawback underspend where appropriate.

The pre-paid card is one way of ensuring that strategic commissioning funding is used appropriately. It enables the council to meet the priorities to individuals in Childrens and adults services with social care needs whilst ensuring the council spend is used appropriately and creatively to meet need. This brings additional benefits to the growth of communities through the use of universal services to meet eligible need.

The corporate plan 2016-2020 has four strategic priorities; the pre-paid card supports all 4 stands:

- Enable residents to live safe, healthy and independent lives
- Keep children and young people safe and give them a great start in life
- Support the growth of our economy
- Secure better services, quality of life and value for money

In particular the introduction of the pre-paid card scheme will promote and enable access to universal opportunities and services for children with disabilities and their families and ensure a range of provision to meet identified need, as it currently does within AWB social care customers.

The increased implementation of the pre-paid card into Childrens services is in line with the deliverables as identified in the corporate plan by “improving commissioning and procurement to deliver greater revenue efficiencies and savings” and “regulatory controls, whilst improving customer experience and access to online services.”

The health and wellbeing plan 2017-20 focuses on “helping people to help themselves” by “redesigning services through collaboration with customers”. Ways of working that are grounded on the principle of enablement and micro commissioning via Direct Payment’s form the foundation of this.

Location or any other relevant information

Countywide coverage

List any key policies or procedures to be reviewed as part of this assessment.

Access to the pre-paid card is already in place for AWB, but this is a new introduction for CWB.

CWB are currently updating their operational procedures for Direct Payments.

In addition a CWB Direct payment pathway will be revisited and project management support has been identified to progress this.

The new pathway will define the operational impact of implementation of the pre-paid card in CWB services to embed new systems procedures.

The new contract with the pre-paid card provider will have an updated specification to include the needs for CWB Direct Payment's and targeted short breaks services. The specification will also support the potential future implementation of health person budgets via pre-paid cards

Who is intended to benefit from the service, function or policy?

Eligible adults and children's via the following schemes;-

- DP- Adults
- DP- Carers
- DP- Childrens
- Targeted short breaks – Childrens
- Health Budgets - CCG

Who are the stakeholders? What is their interest?

- Social care customers adults/carers/children
- Informal carers (older/parent and young carers), families
- Herefordshire Council Adult Wellbeing- staff - Social Workers, Direct Payment team
- Herefordshire Council Children's wellbeing, Social workers, Finance
- CCG
- short breaks service providers
- Social care providers
- The pre-paid card provider

B) Partnerships and Procurement

If you commission services externally or works in partnership with other organisations, Herefordshire Council remains responsible for ensuring that the quality of provision/ delivery meets the requirements of the Equality Act 2010, i.e.

- Eliminates unlawful discrimination, harassment and victimisation
- Advances equality of opportunity between different groups
- Fosters good relations between different groups

What information do you give to the partner/contractor in order to ensure that they meet the requirements of the Act? What information do you monitor from the partner/contractor in order to ensure that they meet the requirements of the Act?

The contract will contain an equality clause stating the provider

- will not discriminate directly or indirectly against any person due to colour, culture or ethnic origin, nationality, religion or belief, gender, disability, age, sexuality, geographical location, or any other status in decisions to recruit, train, promote or dismiss employees.
- without limitation to the foregoing, the provider will comply with the requirements of the Equality Acts 2006 and 2010
- The provider will operate an equalities policy which complies with all relevant requirements of law and insofar as reasonably practicable, follow the current practical guidance and recommendations and will make a copy of such policy available to the council upon request.

Are there any concerns at this stage that indicate the possibility of inequalities/negative impacts? For example: complaints, comments, research, and outcomes of a scrutiny review. Please describe:

The pre-paid card has been successfully implemented in AWB since 2014 with positive impacts.

The role out of the pre-paid card scheme into CWB directorate will bring positive outcomes, however it is acknowledged that start-up of a new operating system will have initial capacity and bedding in issues which come with a new system.

Pathway redesign will determine the implementation date when pre-paid cards are offered for Childrens Direct payments. There is no co-dependency with the contract date as the implementation “go live” date can be set when all systems are aligned.

The pre-paid card will be rolled out first into CWB directorate for the targeted short breaks scheme, The intention to make use of pre-paid cards was communicated as part of the work to recommission short breaks in 2016. Further communication and guidance will be provided to the target group as appropriate.. The gradual implementation will enable the department to understand and address any potential negative impacts through ongoing feedback from families.

The AWB current pre-paid card users will transfer at the point of contract, mobilisation of the transfer of accounts to a new provider has been allowed for within the tender process and a PID is in place to support this, based on previous mobilisations of this contract, which takes into account communications with current customers, user guides and notice periods.

C) Information

What information (monitoring or consultation data) have you got and what is it telling you?

Should the total numbers of each scheme transfer to a pre-paid card the total cards required would be 757. With anticipate future growth the contract needs to be scalable to meet future numbers.

Type of service	Directorate	Numbers in current scheme (01.10.17)	Number of cards per scheme current Nos/ Projected numbers 2018-19	Total value of spend PA Current numbers/
Direct Payment-adults/cares	AWB	633	162	£8,921,254
Direct Payment-carers	AWB	101	94	£55,283
Direct Payment-children	CWB	64	80	£353,000
Targeted Short Breaks	CWB	78	100	£27,300
Health Direct payment	CCG	8	20	£480,000
Totals		884	470	£9,836,837

D) With regard to the stakeholders identified and the diversity groups set out below;

	<i>Is there any potential for (positive or negative) differential impact?</i>	<i>Could this lead to adverse impact and if so what?</i>	<i>Can this adverse impact be justified on the grounds of promoting equality of opportunity for one group, or for any other reason?</i>	<i>Please detail what measures or changes you will put in place to remedy any identified adverse impact.</i>
Disability	Yes- positive – The inclusion of CWB option to use the pre-paid card will enable current social care schemes to be more user friendly and facilitate ease of access to universal services. There will be additional psychological benefits from the “enhanced choice, continuity and control offered by direct payments” and also social, emotional and physical health benefits.	No	N/A	N/A
Age	Yes- positive – research has demonstrated the same degree of consistency between what older people said and what is reported in other studies of younger people and direct payments.	No-however there will be a need to promote this new method of payments in CWB to support its roll out	N/A	N/A
Gender	In 2004, a survey for the Commission for Social Care Inspection found that respondents agreed that ‘the person needing the social care and help should receive money from the government/council which they use to choose which care services they receive’. Women were more likely than men to think this (76 per cent versus 69 per cent respectively)	No	N/A	N/A
Race	Almost all service users are White British.	No. The composition of service users according to this equality strand is broadly reflective of local demographics in Herefordshire generally (6% of the population describe themselves as non-White British)		
Sexual Orientation	<i>No data available to allow analysis</i>			
Religion-belief/none belief	<i>No data available to allow analysis</i>			
Pregnancy/mat ernity	<i>No data available to allow analysis</i>			

Gender reassignment	<i>No data available to allow analysis</i>

E) Consultation

Did you carry out any consultation? Yes No

Who was consulted?

Internals consultation over a series of meetings to include;-

- Direct Payments team manager
- Prevention HOS
- WFAT team manager
- Childrens services - operational teams social care
- Finance teams- Childrens services
- CWB heads of service
- CWB commissioning
- AWB commissioning
- DTL / JDLT

Describe other research, studies or information used to assist with the assessment and your key findings.

- Department of Health 2014, Care and statutory guidance: issued under the care act 2014
- Department of health 2014, Impact assessment- The Care Act (2014) regulations and guidance for implementation of Part 1 of the care act in 2015/16
- Direct Payments: A National Survey of Direct Payments Policy and Practice Personal Social Services Research Unit 2007
- Personalised commissioning in adult social care – National Audit Office – 2016
- Think Local Act Personal 2014
- Children and Families Act 2014
- Making direct payments work for older people-Joseph Rowntree Foundation 2004
- Herefordshire Health and Wellbeing plan 2017-2020
- Herefordshire Corporate plan 2016-2010
- Direct Payments and Older people- Kings Fund 2006
- Adult and Wellbeing Care and Support and Meeting Your Needs Policy 2015 Herefordshire Carers Strategy 2017- 2021Adult Social Care - Developing a New Relationship with Citizens November 2014

Do you use diversity monitoring categories? Yes No

(if No you should use this as an action as we are required by law to monitor diversity categories)

If yes, which categories?

- X Age
- X Disability
- X Gender Reassignment
- X Marriage & Civil Partnership
- X Pregnancy & Maternity
- X Race
- X Religion & Belief
- X Sex
- X Sexual Orientation

What do you do with the diversity monitoring data you gather? Is this information published? And if so, where?

<https://factsandfigures.herefordshire.gov.uk/>

F) Conclusions

	Action/objective/target OR justification	Resources required	Timescale	I/R/S/J
a)	Commissioning / contracting activity	Staff time	3 months	I
b)	Operational impact of embedding new system- pathway redesign for operating procedures	Staff time	4 months	I
c)	Mobilisation of existing cohort	Staff time	3 months	I
d)				

(I) Taking immediate effect.

(R) Recommended to Council/Directors through a Committee or other Report*.

(S) Added to the Service Plan.

(J) To be brought to the attention of the Equality Manager.

*Summarise your findings in the report. Make the full assessment available for further information.

NB: Make sure your final document is suitable for publishing in the public domain.



Meeting:	Cabinet
Meeting date:	Thursday 18 January 2018
Title of report:	Single overarching enforcement & prosecution policy
Report by:	Cabinet member for transport and regulatory services

Classification

Open

Decision type

Non-key

Wards affected

All wards

Purpose and summary

Following the adoption of a single enforcement and prosecution policy by Cabinet in 2012, the purpose of this report is to improve and update this with a revised overarching enforcement and prosecution policy for all regulatory activities undertaken by or on behalf of Herefordshire Council, together with specific supplementary policies.

Recommendation(s)

That:

(a) the single overarching enforcement and prosecution policy (attached at appendix 1) and the following policies forming appendices to that policy (attached at appendices A to F) be approved and implemented with immediate effect:

- i. Parking Supplementary Enforcement & Appeals Policy,**
- ii. Building Control Supplementary Enforcement Policy,**
- iii. Planning Supplementary Enforcement Policy,**
- iv. Environmental Health (Housing) Supplementary Enforcement Policy,**

Further information on the subject of this report is available from Marc Willimont
Tel: 01432261986, email: mwillimont@herefordshire.gov.uk

- v. **Code of Conduct for Issuing Penalty Notices for Child Absenteeism, and**
- vi. **Environmental Enforcement – Fixed Penalty Notice Operational Policy.**

Alternative options

1. Do not revise the 2012 overarching policy nor its supplementary policies and instead retain the existing policies. This is not recommended because it would mean that the current policies are not as up to date as they could be and that the council would lack supplementary policies for parking and fixed penalty notices. This could be challenged as and when the council fulfils its statutory regulatory role.
2. Return to individual enforcement policies for each discipline, with no overarching policy to unite them all. This is not recommended because it would mean that the council's procedures and policies would be more complex and less consistent, increasing the risk of legal challenge to decisions taken under the policies, and could be perceived to be less transparent.

Key considerations

3. A single overarching enforcement policy reduces bureaucracy, simplifies rules and regulations and supports business by being more business friendly.
4. Enforcement policies and procedures have a significant effect on the way enforcement activities are undertaken across a varied range of services throughout the county. This policy and its supplementary documents benefit those who both live and work in Herefordshire through openly publishing the council's policy on all enforcement matters, therefore improving public awareness and openness.
5. Being transparent about how we approach enforcement and, where necessary, prosecute individuals and/or businesses who contravene the rules which the council is empowered to regulate, gives assurance to those who have duties to comply with the law and those who are protected by the law. It also ensures a level playing field to businesses who operate in the county.
6. Whilst there is a wide ranging spectrum of enforcement activity across the organisation, there is a need to ensure that the principles that apply to all enforcement remain visible and are applied appropriately and consistently across the county.
7. All of the council's enforcement activities operating to and within one single policy is not only in line with good practice but will help boost confidence amongst the public, business and members.
8. The various policies have been reviewed to take into account changes required through legislation or guidance since 2012, as well as to take into account of any organisational changes to either partner agencies or the council itself.
9. The policies will be communicated to all council staff in regulatory, planning and parking services and their release shall be advertised through our communications team. The documents shall also be placed on the council's website so that the public, businesses and any other agencies can access them.

Community impact

10. It is envisaged that greater openness will result from the revision of the single policy and its supplementary policies. In addition, any such improvement in openness should facilitate greater adherence to a better 'level playing field' for business regulation and support.
11. The policies complement the council's corporate plan in that they:
 - a. Enable residents to live safe and healthy lives,
 - b. Keep children and young people safe,
 - c. Support the growth of our economy through ensuring a level playing field, and
 - d. Secure better value for money council services.
12. The policies also complement the code of corporate governance, as they require the council to behave with integrity, demonstrate a strong commitment to ethical values and respect the rule of law.

Equality duty

13. Updating this single overarching policy improves transparency, consistency and will reduce the risk of not fulfilling our public sector equality duty.
14. Section 149 of the Equality Act imposes a duty on public authorities and other bodies when exercising public functions to have due regard to the need to:
 - eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
 - advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

This decision will not impact on the council's ability to discharge its equality duty. There are no equality implications arising from this report, other than that this policy and its supplementary documents will continue to ensure that all people and businesses are treated equally and fairly within Herefordshire.

Resource implications

15. There will be no additional costs associated with the revision and implementation of this single enforcement and prosecution policy and the adoption of its supplementary documents. It will therefore remain 'business as usual'.

Legal implications

16. It is best practice for all local authorities to adopt a single enforcement and prosecution policy and to periodically update these. Such a policy shall be used when making any regulatory decisions that might impact upon businesses or individuals.

Risk management

17. There are no risks associated with supporting the recommendations that have been identified. Conversely, not to update the policy would leave the council open to challenge when performing its regulatory function.

Consultees

18. Other than consultation with the police on the parking supplementary enforcement and appeals policy, consultation has not been necessary with external bodies as the overarching policy simply updates the existing one. The supplementary policies have been drafted by the specific service areas for which they serve and take into account the various updates required by legislative changes and/or new guidance.

Appendices

Appendix 1 – Overarching Enforcement and Prosecution Policy

Appendix A - Parking Supplementary Enforcement & Appeals Policy

Appendix B – Building Control Supplementary Enforcement Policy

Appendix C – Planning Supplementary Enforcement Policy

Appendix D – Public Sector Housing Supplementary Enforcement Policy

Appendix E – Code of Conduct for Issuing Fixed Penalty Notices

Appendix F – Environmental Enforcement – Fixed Penalty Notice Operational Policy

Background papers

None identified

Overarching Enforcement and Prosecution Policy

January 2018

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 - 2.5 Consistent Enforcement
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1. Introduction

- 1.1 This policy sets out the general principles that Herefordshire Council will follow in relation to regulation, enforcement and prosecution, although prevention through education will remain the council's first aim when regulating. This document sets out what businesses, individuals and the community as a whole can expect from the council in the discharge of its various regulatory and enforcement functions.
- 1.2 The policy will be complemented, where appropriate, by specific policy or procedure as is necessary to account for any variation that may be required for particular functions or requirement of legislation.
- 1.3 The primary function of the council's regulatory and enforcement work is to protect the public, public funds, the environment and groups such as consumers, residents and tenants, workers and businesses. At the same time, carrying out such activity in an equitable, practical and consistent manner helps to maintain a level playing field for local businesses, individuals and our other service users. Good regulation and enforcement will help to promote a thriving local economy and a safer and more enjoyable environment.
- 1.4 This policy has been developed with due regard to the 'Principles of Good Enforcement' set out in the following guidance documents:
 - Central and Local Government Enforcement Concordat
 - The Regulators' Compliance Code issued under the Legislative and Regulatory Reform Act 2006
 - The Code for Crown Prosecutors issued by the Director of Public Prosecutions under the Prosecution of Offenders Act 1985.

This policy has also had regard to Herefordshire Council's constitution, scheme of delegation and all its policies, including those concerning officer code of conduct.

- 1.5 In certain circumstances we may conclude that a provision contained in one or more of the above-mentioned documents is either not relevant or is outweighed by another provision or relevant factor. We will ensure that any decision to depart from policy guidelines is properly reasoned and based on material evidence.
- 1.6 For the purposes of this policy the following definitions are given to the terms 'regulatory' and 'enforcement':
 - 'Regulatory' encompasses the council's numerous powers and duties enabling the behaviour of individuals and/or organisations to be controlled in the public interest.

- ‘Enforcement’ includes any action carried out in the exercise of, or against the background of, statutory powers and duties of regulation. This is not limited to formal enforcement action such as prosecution in the criminal courts or the giving of statutory notices. It also includes, among other things, the inspection of premises for the purpose of checking compliance with regulations and conditions, the imposition of conditions on any licence, consent or similar formal permission, the issue of fixed penalty notices, the giving of cautions and the making of applications to the courts for orders to control the conduct of individuals and/or organisations.
- 1.7 All enforcement activities, including investigation and formal actions, will always be conducted in compliance with the council’s statutory obligations. Council enforcement officers should act within the scope of their delegated authority and with due regard to the provisions of the Police and Criminal Evidence Act 1984, the Criminal Procedures and Investigation Act 1996, the Human Rights Act 1998, the Data Protection Act 1998, the Regulation of Investigatory Powers Act 2000, the Legislative and Regulatory Reform Act 2006, the Consumer Rights Act 2015, the Protection of Freedoms Act 2012 and any other legislation relevant to specific service areas and legislation designed to tackle discrimination and promote equality.

2. Principles of Enforcement – Policy

2.1 Supporting Economic Progress through Compliance

The effectiveness of legislation in protecting consumers, businesses and the community depends crucially on the compliance of those regulated. We recognise that most people and most businesses want to comply with the law. We will, wherever practicable, take care to help all meet their legal obligations without unnecessary expense.

We will strive to ensure that when information is needed that it is assessed to avoid duplication of requests and amended where necessary. We aim to seek feedback on how we use to collect information from business.

Whenever practicable we will promote positive incentives for all to comply.

2.2 Openness through Clear Accessible Advice and Guidance

2.2.1 We will provide information and advice in plain language on the legislation that we enforce and disseminate this as widely as possible, through various media and the Council website at www.herefordshire.gov.uk.

2.2.2 Within the limits imposed by law, we will be open about how we carry out our work, including any charges that we make for services. We will make a point of seeking appropriate consultation with business, voluntary organisations, charities, landlords, tenants, consumers and workforce representatives about the services that we provide and about our enforcement policies and procedures. We will discuss

general issues, specific compliance failures or problems with those experiencing difficulties.

2.3 Helpfulness through Clear Accessible Guidance

2.3.1 We believe that it is in the interests both of regulated businesses and the wider public to get things 'right first time', and that therefore our enforcement role should involve actively working with all those subject to regulation to guide and assist with compliance. We will provide a courteous and efficient service and our staff will identify themselves by name and carry proof of their identity. We will provide a contact point for further dealings with us and we will encourage all to seek guidance or information from us. All requests for service, will be dealt with efficiently and promptly within the resources available. We will ensure that, wherever practicable, our enforcement activities are effectively co-ordinated to minimise unnecessary overlaps and time delays. This reflects our approach to delivering services in an efficient way.

2.4 Intelligence Led and Risk Based Enforcement

2.4.1 We will minimise the costs of compliance by ensuring that any action we require is either intelligence led or proportionate to the risks presented to the council and Herefordshire's communities. We will adopt an intelligence led or risk-assessment approach to target resources where most needed. In line with the codes referred to above, we will take account of the circumstances of the case and the response of those subject to regulation when considering action. At the same time we will use intelligence and direct resources to identify those who flout the law or act irresponsibly and take firm action against them, including prosecution where appropriate.

2.5 Consistent Enforcement

2.5.1 We will carry out our duties in a fair, equitable and consistent manner. While officers are expected to exercise judgement in individual cases and to treat each case on its own merits, we will have arrangements in place to promote consistency. We will support and promote arrangements for effective liaison with other authorities and enforcement bodies.

2.6 Working with Other Enforcement Agencies

2.6.1 Some regulatory activity involves consultation with other agencies before deciding on the most appropriate course of action. Sometimes there is more than one agency that can act in response to a problem. If there is a shared enforcement role with other agencies, whenever possible our enforcement activities will be co-ordinated with these agencies in order to minimise unnecessary duplication or delays and to increase our overall effectiveness. For example, joint working may be carried out with the West Mercia Police, Hereford & Worcester Fire & Rescue Service, the Health and Safety Executive, the Environment Agency, Revenue and

Customs, the Gambling Commission, Animal Health and Plant Agency (AHPA), Border Agency, Food Standards Agency and other local authorities, government departments or agencies. Persistent offenders may also be reported to other agencies for further action. Equally, there are instances when more than one part of the council may have enforcement options in respect of the same issue. In such a case we will ensure that appropriate liaison occurs and that the best option for enforcement is taken in the following circumstance:

- Wherever we have a statutory duty to report regulatory matters to another body or agency, we will have procedures in place to ensure that this happens;
- If we become aware of an enforcement issue that would be of legitimate interest to, or more properly be dealt with by, another enforcement agency, we will ensure that the information is passed to that agency in good time;
- Occasionally an offence can be dealt with under more than statute. In these cases a decision will be made between officers as to which is the most effective course of action.

2.7 Adopting Good Enforcement Procedures

- 2.7.1 Guidance from an officer will be put clearly and simply, explaining why any remedial work or action is considered to be necessary and over what time-scale, and making sure that legal requirements are clearly distinguished from best practice advice. Such guidance will be confirmed in writing.

2.8 Complaints about the Service

- 2.8.1 We provide a dedicated Information Access Team to help with any complaint about council services. This team can be contacted via our website at https://www.herefordshire.gov.uk/info/200148/your_council/61/get_involved/7 or on 01432 260000.

3. Principles of Enforcement - Procedures

- 3.1 Wherever possible officers will provide an opportunity to discuss the relevant circumstances before any decision to take formal enforcement action is made. Examples of where it may not be appropriate to discuss the matter may include cases where immediate action is required in the interests of health and safety or environmental protection, or cases where it is necessary to prevent evidence being destroyed.
- 3.2 Where immediate action is considered necessary, an explanation of why such action is required will be given at the time and where reasonable confirmed in writing within 5 working days.

- 3.3 Where there are rights of appeal against formal action, advice on the appeal mechanism will be clearly set out in writing at the time the action is taken. Whenever possible, this advice will be issued with any enforcement notice or order.

4. Investigation

- 4.1 The council will carry out risk assessments or intelligence tasking to ensure that our regulatory efforts are targeted where they would be most effective. Inspections and other visits will be in accordance with the appropriate risk assessment, except where visits are requested, or we are required to investigate.
- 4.2 All officers will have regard to the principles contained in this policy when making enforcement decisions. Regard will also be had to any approved statutory, governmental or other national guidance, and to any internal quality procedures.

5. Enforcement options

- 5.1 There are a variety of enforcement actions available to the council:

- compliance advice and support;
- review of any licence and/or licence conditions;
- written warning;
- legal enforcement notice;
- fixed penalty notice;
- work in default/cost recovery action/direct works for planning enforcement;
- seizure/application for forfeiture;
- the issue of a caution;
- administrative penalty;
- prosecution or other legal proceedings including injunctive action;
- Proceeds of Crime Act confiscation proceedings;
- Community resolution.

This is not an exhaustive list and other options may be available under legislation relevant to specific areas.

- 5.2 In choosing which enforcement option(s) to take the council will aim to change the inappropriate behaviour causing the problem and to deter future non-compliance. The enforcement option(s) chosen will be proportionate to the nature of the non-

compliance/alleged offence and the harm caused by it, and appropriate to the individual or business which the action is taken against. Enforcement action will be followed up as appropriate and will result in further enforcement options being pursued if the initial action has not achieved the appropriate result.

- 5.3 In some circumstances matters may be referred to another agency for enforcement action, or officers may liaise and take joint action with other council departments and/or external organisations in order to achieve enforcement aims.

6. Prosecution

- 6.0.1 The Attorney General's guidelines on criteria for prosecution endorsed the principle that suspected criminal offences should not automatically be the subject of prosecution.

- 6.0.2 Herefordshire Council acknowledges that the decision to prosecute a business or an individual is serious. The policy is designed to ensure that the council makes fair and consistent decisions about prosecutions. In doing so it will pay full regard to the criteria set out in The Code for Crown Prosecutors issued by the Director of Public Prosecutions.

- 6.0.3 A decision to prosecute will only be made by an officer not involved with the investigation, and authorised in such a capacity in line with the council's scheme of delegation.

- 6.0.4 Council officers charged with investigating alleged offences must give due regard to the provisions of this policy when making recommendations to authorised officers.

6.1 General Principles

- 6.1.1 Whilst each case is unique and will be considered on its own facts and merits, there are certain general principles that authorised officers will follow in their approach to every case.

- 6.1.2 Officers will be fair, independent and objective. They will not let any personal views about a suspect's, victim's or witness's ethnic or national origin, disability, sex, religious beliefs, political views, or sexual orientation influence their decisions.

- 6.1.3 Authorised officers have a responsibility to ensure that the right person is prosecuted for the right offence. They will always act in the interests of justice and not solely for the purpose of obtaining a conviction.

6.2 The Decision to Prosecute

- 6.2.1 In making a decision on prosecution the authorised officer will apply two tests. Application of these tests will ensure that all relevant factors are considered and that fair consistent decisions are made about each potential prosecution.

6.2.2 The first test is consideration of the evidence. If the case does not pass the evidential test a prosecution must not go ahead no matter how serious the case is. If the evidential test is satisfied the authorised officer will consider the second test of whether it is in the public interest to prosecute. A prosecution will only be taken if both tests are satisfied.

6.3 The Evidential Test

6.3.1 Authorised officers must be satisfied that there is sufficient admissible reliable evidence to provide a realistic prospect of conviction against each defendant on each charge.

Sufficient

6.3.2 There is only sufficient evidence to provide a realistic prospect of conviction if, when presented with that evidence, a jury or bench of magistrates properly directed in accordance with the law, is more likely than not to convict the defendant of the charge alleged. This is an objective test and when applying it to the case the authorised officer will aim to be completely impartial. They will also have regard to any statutory defence that is available.

Admissible

6.3.3 There are legal rules which might not allow evidence that appears relevant to be given at a trial. If the authorised officer believes that some of the evidence falls within this category, he/she will satisfy him/herself that there is enough other evidence for a realistic prospect of conviction.

Reliable

6.3.4 Evidence may be regarded as unreliable for a number of reasons. It may be affected by factors such as age, intelligence or level of understanding, by the background of the witness, for example, a motive that may affect his or her attitude to the case, or a relevant previous conviction, or a general concern over the accuracy or credibility of the evidence.

6.3.5 Where there are such concerns, authorised officers will not ignore the evidence, but will look at it closely in conjunction with the other evidence to decide whether there is a realistic prospect of conviction.

6.4 The Public Interest Test

6.4.1 The general principle of this policy is that a prosecution will usually take place unless the public interest factors against prosecution clearly outweigh those in favour of prosecution, or it appears more appropriate in the circumstances to divert the defendant from prosecution.

6.4.2 The public interest factors will vary from case to case. Not all factors will apply to each case and there is no obligation to restrict consideration just to the factors listed.

Public Interest Factors in Favour of Prosecution

6.4.3 The more serious the offence, the more likely it is that a prosecution will be needed in the public interest. A prosecution is likely to be needed if:

- (a). a conviction is likely to result in a significant sentence;
- (b). a conviction is likely to result in a confiscation or any other order;
- (c). a weapon was used or violence was threatened during the commission of the offence;
- (d). the offence was committed against a person serving the public;
- (e). the risk presented to the public, trade or environment by the commission of the offence was serious or widespread;
- (f). the defendant has failed to comply, in part or in full, with a statutory notice;
- (g). the defendant acted fraudulently, wilfully or negligently;
- (h). harm was caused to human health, animal health or the environment;
- (i). the defendant was in a position of authority or trust;
- (j). the evidence shows that the defendant was a ringleader or an organiser of the offence;
- (k). there is evidence that the offence was premeditated;
- (l). there are grounds to believe that the defendant was motivated solely by personal gain;
- (m). there is evidence that the offence was carried out by a group;
- (n). the victim of the offence was vulnerable, has been put in considerable fear, or suffered personal attack, damage or disturbance;
- (o). the offence was motivated by any form of discrimination against the victim's ethnic or national origin, disability, sex, religious beliefs, political views or sexual orientation, or the suspect demonstrated hostility towards the victim based on any of those characteristics;
- (p). there is a marked difference between the actual or mental age of the defendant and the victim, or if there is any element of corruption;

- (q). the defendant is alleged to have committed the offence whilst under an order of the court;
- (r). the offence was committed in the presence of or in close proximity to a child;
- (s). the defendant's previous convictions or cautions are relevant to the present offence;
- (t). there are grounds for believing that the alleged offence is likely to be continued or repeated;
- (u). the offence, although not serious in itself, is widespread in the area where it was committed;
- (v). a prosecution would have a significant positive impact on maintaining community confidence;
- (w). the outcome of the prosecution might establish an important precedent or draw public attention to national or local campaigns or issues.

Public Interest Factors against Prosecution

6.4.4 A prosecution is less likely to be needed if:

- (a). the alleged offence was committed as a result of a genuine mistake or misunderstanding of the circumstances or of the law;
- (b). the loss or harm can be described as minor and was the result of a single incident, particularly if it was caused by a misjudgement;
- (c). the defendant has put right the loss or harm that was caused (but defendants must not avoid prosecution simply because they have offered compensation);
- (d). there has been a long delay between the alleged offence taking place and the decision made to prosecute, unless:
 - i) the alleged offence has only recently come to light;
 - ii) the offence is serious;
 - iii) the complexity of the offence has meant that there has been a long investigation;
 - iv) the delay has been caused in part by the defendant;
- (e). the court is likely to impose a very small or nominal penalty;
- (f). a prosecution is likely to have a bad effect on the victim's physical or mental health, always bearing in mind the seriousness of the offence;

- (g). the defendant is elderly or is, or was at the time of the offence, suffering from significant mental or physical ill health;
- (h). details may be made public that could harm sources of information, international relations or national security.

6.4.5 Deciding on the public interest is not simply a matter of adding up the number of factors on each side as some factors will be more important than others. As such authorised officers will 'weight' factors in making an overall assessment.

6.5 Diversion from Prosecution

6.5.1 When deciding whether a case should be prosecuted authorised officers will consider the alternatives to prosecution in pursuit of the aim to change inappropriate behaviour and to deter future non-compliance.

6.5.2 A conviction can have wide ranging and long lasting effects, and particular care will be taken when deciding whether it is in the public interest to prosecute in cases involving a young person. For the purposes of this policy a young person is someone under the age of 18 years.

7. Publicity

7.1 In order to deter others the council will aim to publish any prosecution or other enforcement action.

8. Review

8.1 This policy will be reviewed as is required to reflect statutory changes or national guidance.

9 Appendices

Appendix A – Parking Supplementary Enforcement & Appeals Policy

Appendix B – Building Control Supplementary Enforcement Policy

Appendix C – Planning Supplementary Enforcement Policy

Appendix D – Public Sector Housing Supplementary Enforcement Policy

Appendix E – Code of conduct for Issuing Penalty Notices for School Absenteeism

Appendix F – Environmental Enforcement: Fixed Penalty Notice Operational Policy

Appendix A

Parking

Supplementary Enforcement and Appeals Policy

January 2018

1. Introduction

- 1.1 On the 5th Nov 2001 the county of Herefordshire became a Special Enforcement Area by virtue of The Road Traffic (Permitted Parking Area and Special Parking Area) (District of Herefordshire) Order 2001. This Statutory Instrument enables Herefordshire Council to enforce on and off street parking restrictions across the county under the provisions contained within the Traffic Management Act 2004.
- 1.2 This policy aims to clarify the council's enforcement and decision making process, whilst promoting consistency and transparency in parking operations.
- 1.3 Parking enforcement operates under decriminalised (civil) legislation where different enforcement protocols, policies and / or procedures may be followed to that of criminal proceedings. It is important to note that on the whole discretion, in respect of the enforcement of parking contraventions and any subsequent Penalty Charge Notices that may be issued, lies with the appeals office. This is in accordance with the relevant statutory guidance and legislation, and may be different to other areas covered by the Single Enforcement Policy, particularly where criminal investigations take place.

2. Scope

- 2.1 This policy covers the following areas of parking enforcement;
 - Parking contraventions
 - Appeals and representations
 - Blue badge enforcement
 - Persistent evaders
 - Dispensation waivers

3. Parking Contraventions

- 3.1 All vehicles are subject to the provisions of a Traffic Regulation Order, Off Street Parking Order or statutory parking contravention. Any vehicle parked in contravention of a parking restriction are subject to the issue of a Penalty Charge Notice (PCN) by a Civil Enforcement Officer (CEO).
- 3.2 CEOs will follow all operational guidance when issuing PCNs.
- 3.3 CEOs have no discretion to cancel a PCN once it has been issued.

4. Appeals and Representations

- 4.1 In accordance with the Department for Transport's operational guidance to local authorities, Civil Enforcement Officers have no discretion to cancel or withdraw a PCN once it has been issued. This discretion remains with the back office who will apply the relevant operational guidance in the decision making process.
- 4.2 Herefordshire Council may exercise its discretion and cancel a PCN at any point in the process. It may do this even where a contravention has been proved, in doing this consideration will be given to the public interest to pursue such matter and its duty to act fairly and proportionately.

- 4.3 Appeals officers may exercise discretion when assessing the facts involved in the issue of a PCN and in the absence of any other information may accept the version of events presented by the appellant on the first occasion.
- 4.4 If a driver feels that a notice should not have been issued or there are mitigating circumstances, then they can challenge the penalty charge notice.
- 4.5 **A challenge can be made by:**
- Sending a letter: Parking Enforcement Team, Plough Lane, Hereford, HR4 0LE
- Email: parking@herefordshire.gov.uk
- Online: <https://www.herefordshire.gov.uk/transport-and-highways/parking/roads-street-parking-enforcement>
- 4.6 Please note that a decision cannot be made regarding a challenge over the telephone. A challenge and a decision can only be made in writing.
- 4.7 Once a challenge to a notice has been received the PCN will be placed on hold pending a response.
- 4.8 If a challenge is received within 14 days of the date the PCN was issued, and the challenge is unsuccessful, a further opportunity to pay the discounted amount within 14 days of the response will be given.
- 4.9 If a penalty charge is not paid or challenged within 28 days of the penalty charge being issued, the DVLA will be contacted for the registered owner/keeper details. A Notice to Owner will then be issued to that person. A Notice to Owner gives the owner/keeper the opportunity to pay the penalty charge in full or make a formal representation to Herefordshire Council within 28 days.
- 4.10 If a formal representation is received and subsequently rejected a formal Notice of Rejection will be issued. This will provide details of why the representation has been rejected, the amount to be paid and that payment is required within 28 days.
- 4.11 If a representation is rejected the registered owner/keeper will have the opportunity to appeal to the Traffic Penalty Tribunal (TPT). This is an independent body that will look at evidence provided by the owner/keeper and Herefordshire Council and make an unbiased decision based on this evidence. Appeals to the TPT are carried out on-line and a pin number will be provided on the Notice of Rejection. For further information on the TPT you can visit their website at www.trafficpenaltytribunal.gov.uk.
- 4.12 If full payment or representation is not received, the penalty charge increases by 50%, and a Charge Certificate is issued; full payment is required within 14 days. Failure to pay within this time will result in the debt being registered at the Traffic Enforcement Centre (TEC) at Northampton County Court, with an additional fee of £7 being added and an Order for Recovery is issued. Any further lack of response is referred to the council's Enforcement Agents.
- 4.13 The council will aim to reply to all correspondence within ten working days of receipt. If a full reply cannot be sent in that time, an acknowledgement letter will be sent within five days of receipt. The council is obliged to let you know its decision in writing within 56 days of receiving a formal representation.
- 4.14 For more information on civil parking enforcement, visit [the PATROL website](#).

Statutory Grounds to make a formal representation

4.15 The **statutory** grounds to make a formal representation against a Notice to Owner are prescribed by The Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007. Grounds for informal representations against the issue of a Penalty Charge Notice will be considered against the appeals officers' operational guidance.

4.16 Formal representations made against a Notice to Owner under the following **statutory** grounds will be considered against the following policy:

4.17 **The contravention did not occur.**

Cancel	Uphold
<p>Cancellation grounds will be considered in accordance with appeals officers' operational guidance.</p> <p>The criterion set out in the operational guidance is for guidance only as each case must be considered on its own merits, taking into account all the circumstances.</p>	<p>Cancellation grounds will be considered in accordance with appeals officers' operational guidance.</p> <p>The criterion set out in the operational guidance is for guidance only as each case must be considered on its own merits, taking into account all the circumstances.</p>

4.18 **The penalty charge exceeded the amount applicable in the circumstance of the case.**

Cancel	Uphold
<p>The PCN or Notice to Owner showed the incorrect amount of penalty charge, i.e. the wrong differential penalty level.</p>	<p>The PCN or Notice to Owner showed the correct amount of penalty charge.</p>

4.19 **That there has been a procedural impropriety on the part of the enforcement authority.**

Cancel	Uphold
<p>Where it is established that the enforcement authority has failed to observe any requirement imposed on it by the Traffic Management Act regulations in relation to the imposition or recovery of a penalty charge.</p> <p>The taking of any step in advance of the time scale set out in the regulations.</p>	<p>Where it is established that the enforcement authority has observed any/all requirements imposed on it by the Traffic Management Act regulations in relation to the imposition or recovery of a penalty charge.</p> <p>All time scales set out in the regulations are adhered to.</p>

4.20 **The relevant Traffic Regulation Order (TRO) is invalid.**

Cancel	Uphold
If the relevant order was found to be invalid. This does not apply to orders to which Part VI of schedule 9 to the Road Traffic Regulation Act 1984 applies.	If the relevant order was found to be valid.

4.21 The appellant did not own the vehicle when the alleged contravention occurred.

Cancel	Uphold
<p>Where the DVLA confirms that the vehicle was not registered to the recipient on the date of the contravention.</p> <p>Where, if the driver is claiming to have sold / transferred the vehicle before the contravention, they provide documentary proof that the vehicle had been sold / transferred / disposed of to another party before the contravention.</p> <p>Where the current registered keeper, that is claiming not to have acquired the vehicle until after the contravention, provides documentary proof that the vehicle was purchased / transferred / disposed of the vehicle to them after the contravention.</p>	<p>Where the DVLA confirms that the vehicle was registered to the recipient on the date of the contravention.</p> <p>Where the driver is proven to have hired the vehicle for the day on which the contravention occurred and signed an agreement to take responsibility for PCNs incurred, subject to the time of hire.</p>

4.22 The owner of the vehicle is a hire firm and:

- (i) the vehicle was on hire under a qualifying agreement; and**
- (ii) the hirer has signed a statement of liability for any PCN issued during the hire period.**

Cancel	Uphold
<p>The hire company is able to provide documentary proof that the vehicle was hired at the time of the contravention.</p> <p>The hire company is able to provide the full name and address of the person to whom they hired the vehicle.</p> <p>(Notice to Owner will be issued to the person named on the hire agreement)</p>	<p>If the person named by the hire company as the person to whom they hired the vehicle, <u>without documentary proof</u>, either does not exist, cannot be traced or denies responsibility for the contravention.</p> <p>If the vehicle was being used as a courtesy car without an agreement that had been signed to accept responsibility for any Penalty Charges Notices.</p>

	If the hire company is unable to prove that they neither hired out the vehicle on the date of the contravention nor can provide the name and address of the persons to whom hired the vehicle.
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4.23 The vehicle was taken without the owner's consent.

Cancel	Uphold
Where the registered keeper of the vehicle provides a valid police incident and / or crime reference number.	Where the registered keeper of the vehicle cannot provide a valid police incident and/or crime reference number or cannot prove the vehicle was taken / stolen. Where the crime number does not exist or match the details of the date of the contravention.

4.24 The penalty has been paid.

Cancel	Uphold
Where the records show that the PCN has been paid, or the appellant can provide satisfactory proof of payment.	Where the records show that the PCN has not been paid, or the appellant cannot provide satisfactory proof of payment. Where payment was made outside of the discount period to allow a reduced settlement.

5. Blue badge enforcement

- 5.1 The Disabled Persons Parking Badges Act 2013 gives local authorities powers in relation to the inspection, retention and cancellation of disabled persons parking badges (blue badges).
- 5.2 Officers authorised by Herefordshire Council will carry out inspections at the roadside and in council car parks, these officers may be in uniform or in 'plain clothes'. On approaching a member of the public these officers will produce a photographic identification card.
- 5.3 An enforcement officer may require any person that is in a vehicle, or appears to have been in or about to get into a vehicle displaying a blue badge to produce the badge for inspection. The enforcement officer will establish that the badge is valid and may make some background enquires.

- 5.4 Where an enforcement officer has established reasonable grounds that a blue badge is invalid or being misused it may be retained by that officer.
- 5.5 A Penalty Charge Notice (PCN) may also be issued to the vehicle if it is established that the badge is not being used legitimately. Any PCN issued will be treated separately to the offences related to the misuse of a disabled persons badge; these can be paid or challenged using the appropriate methods outlined on the notice itself and in this policy.
- 5.6 In circumstances where the badge has been retained by an enforcement officer because reasonable grounds were established to consider that it was being **misused** it will be returned to the rightful badge holder, or to the issuing authority.
- 5.7 In circumstances where the badge has been retained by an enforcement officer because the badge is **invalid** Herefordshire Council will destroy the badge.
- 5.8 Consideration for prosecuting drivers found to be abusing the blue badge scheme will be given to all cases where the badge is being **misused**. It is accepted that not all seizures of blue badges will result in a prosecution. Drivers can be dealt with by the following means:
 - I. Warning letter – a driver will not be issued a second warning within 2 years of receiving the first
 - II. Simple Caution
 - III. Criminal prosecution

6. **Persistent evaders**

- 6.1 *“A vehicle owner can be classed as a ‘persistent evader’ if there are three or more recorded contraventions for the vehicle and the penalties for these have not been paid, represented against or appealed against within the statutory time limits, or their representations and appeals have been rejected but they have still not paid.”*
 – Department for Transport Traffic Management Act 2004 - Operational Guidance to Local Authorities: Parking Policy and
- 6.2 Vehicle may be removed, stored and disposed of in accordance with the provisions set out in Sections 99-101 Road Traffic Regulation Act 1984 and The Removal and Disposal of Vehicles Regulations 1986. Regard has been given to the statutory guidance under S87 Traffic Management Act 2004.
- 6.3 Once classed as a persistent evader, if the vehicle parks in contravention of any parking restriction for longer than 15 minutes after a PCN is served by a Civil Enforcement Officer (CEO) it may then be removed.
- 6.4 The police will be notified of the removal of the vehicle to enable them to deal with queries from motorists who may report their vehicle as stolen.
- 6.5 If the vehicle is in fact parked where parking is prohibited (such as on double yellow lines), then the vehicle can be removed as soon as the PCN has been served.
- 6.6 If vehicle is not collected within 10 working days from the date of the above letter the council will dispose of the vehicle in accordance with s.101 Road Traffic Regulation Act 1984 and The Removal and Disposal of Vehicles Regulations 1986.
- 6.7 The vehicle may be sold to recover the cost of the removal.

- 6.8 If the vehicle is disposed of or sold, the council will inform the registered keeper of this in writing and of their right to make representations and their subsequent right to appeal against representations that are rejected (see below). Where a registered owner / keeper makes an appeal against the issue of the PCN whilst the vehicle is still in storage, the process for disposing of the vehicle will be put on hold until such time as the council has considered the ground for appeals and advised the keeper/owner of the outcome.
- 6.9 Where a vehicle is sold, the excess money from the sale of the vehicle will be held in council bank accounts for up to one year from the date of sale. If a person satisfies the council that they were the owner of the vehicle at the time of the sale the council will pay any sum by which the proceeds of the sale exceed the amount of the relevant charges. Contact must be made by the owner within one year from the time of the sale in writing to the council at the address below.
- 6.10 If it is felt that the Penalty Charge Notice should not have been issued, or there are mitigating circumstances, a challenge can be made however this must be in writing. This can be done whilst the vehicle is in storage or after the vehicle has been released or disposed of with the statutory time-limits. See above for ways to make a challenge.
- 6.11 If the PCN is not paid within 28 days of the issue date enquires will be made to the DVLA as to the registered keeper at the time of the contravention and a Notice to Owner will be sent to the registered owner/keeper of the vehicle. At that stage a formal representation can be made, by the registered owner/keeper, on up to six grounds, which are detailed above and on the reverse of the Notice to Owner.
- 6.12 All representations are carefully considered and if successful, a Notice of Acceptance will be sent. However, if unsuccessful, a Notice of Rejection will be issued, along with details of how to appeal to the Traffic Penalty Tribunal (TPT). This is an independent body that considers appeals throughout the county. The owner/keeper/hirer can only appeal to TPT once a formal Notice of Rejection has been received.
- 6.13 All operational guidance will be followed by staff applying this policy.

7. **Dispensations**

- 7.1 Herefordshire Council recognises that sometimes it is necessary for a member of the public to park a vehicle in contravention of a Traffic Regulation Order in order for the driver to perform an essential task or activity
- 7.2 Without authority to do this the driver risks receiving a Penalty Charge Notice (PCN) as a Civil Enforcement Officer (CEO) on patrol who sees a vehicle parked in contravention will generally not know where the driver is or what they are doing.
- 7.3 The current charges for the issue of a dispensation permit is listed on the application form, and can be viewed on the dispensations page of Herefordshire Councils website. There is a charge to replace a lost permit or to change the vehicle details.
- 7.4 All charges will be reviewed annually as a part of the general parking charge review.
- 7.5 Applications will be considered and officers will assess them against the operational guidance.

Appendix B

Building Control Supplementary Enforcement Policy

January 2018

1. Introduction

- 1.1 This procedural document should be read in conjunction with Herefordshire Council's 'Overarching Enforcement and Prosecution Policy'

2. What is Enforcement?

- 2.1 It is a formal procedure available to local authorities which enables them to ensure that building work complies with the national building regulations.
- 2.2 Section 91 of the Building Act 1984 requires the local authority to carry out its duties to enforce the Building regulations.
- 2.3 Sections 35 and 36 contain the powers for local authority building control to take enforcement action.

3. When are these procedures used?

- 3.1 When an inspecting building control surveyor sees that either work carried out does not comply with the Building Regulations or work, which would normally be required to be inspected at specified stages has been covered over without the council having been given the opportunity to inspect the work at that stage.

4. How do the procedures work?

- 4.1 In the majority of cases, the inspecting building control surveyor will try and solve the problem informally with your builder if you have employed one or with you personally if you are organising or doing the work yourself. This will usually involve having the incorrect work already done altered or, if an inspection has not been carried out when it should have been due to a failure to give the council the necessary notice, it will mean that the work not inspected will need to be opened up for an inspection. These informal methods usually mean that the problem is sorted out within two or three days.
- 4.2 If these informal methods are unsuccessful, the inspecting building control surveyor will issue on site to your builder a list of the offending items and the builder will be given a period of time to rectify the offending work or open up work as necessary. You will automatically be given a copy, a further copy is placed upon the council's file.
- 4.3 Irrespective of whether or not the council decides to invoke statutory enforcement procedures, the existence of such a list of unresolved outstanding work on the file will mean that a completion certificate will not be issued.

5. What could happen next?

- 5.1 Depending upon the nature of the outstanding work, the council has a discretion to use powers contained in an Act of Parliament called The Building Act 1984. Two options are available:
 - Any contravention of the Building Regulations is a criminal offence. Under section 35 of the Building Act 1984, the Council can prosecute anyone who fails to comply with the regulations. This could be your builder, or even you as the owner, particularly if you are organising the work yourself using different sub-contracted trades. Anyone convicted of contraventions of Building Regulations will usually be fined and the

court can also order that that person pay a fine for each day that passes following conviction until the work is put right.

- Even if the council doesn't prosecute anyone for the contravention, it can also serve a formal notice under section 36 of The Building Act 1984 upon you as the building owner. This notice specifies the extent of the offending work and the timescale within which it must be put right.

6. What sort of contraventions of building regulations could lead to the Council serving a notice on me under section 36 of the Building Act 1984?

6.1 Each building project is different and so it is difficult to be completely specific about a full list of circumstances where a Notice would be served. However, as a general rule, they would be used as a tool of last resort where:

- The building was structurally defective.
- Means of escape and other fire safety precautions were defective.
- Where relevant, if sound insulation was inadequate, and
- Where relevant, suitable access and facilities for disabled people have not been provided.

7. What happens if I don't put the work right within the time allowed by the Council?

7.1 The council may choose to do the work itself. It doesn't have to, but if it does do the work, it will then send you a bill for it.

8. Are there any ways to question what the council is doing?

8.1 Yes. At any stage in the process you are entitled to use the council's complaints procedures, details of which are available on-line. If the problem gets to the stage where a notice under section 36 of The Building Act 1984 is served on you, you can challenge the council by obtaining a specialist report to try and demonstrate that the council was wrong in serving the notice on you in the first place. The way of doing this is specified in section 37 of the Building Act 1984.

Appendix C

Planning

Supplementary Enforcement Policy

January 2018

Planning Enforcement Policy and Procedure

1. Introduction

The National Planning Policy Framework (NPPF) states in paragraph 207:

“Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. Local planning authorities should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where it is appropriate to do so”.

This document therefore sets out the council’s policy and procedure to ensure that both environmental and public amenity is safeguarded and public confidence is therefore maintained.

Before setting out the policy and procedure it is important to remember that:

- With the exception of unauthorised works to a listed building, non-compliance with a tree preservation order and putting up an advertisement in contravention of advertisement regulations, the carrying out of development without planning consent is not a criminal offence. However, failure to comply with an enforcement notice, breach of condition notice, stop notice, temporary stop notice, Section 215 notice and failure to return a planning contravention notice are criminal offences.

Development Management

The definition of development is given in section 55 of the Town and Country Planning Act 1990

“Subject to the following provisions of this section, in this Act, except where the context otherwise requires, “development,” means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.

(1) *For the purposes of this Act “building operations” includes—*

- (a) *demolition of buildings;*
- (b) *rebuilding;*
- (c) *structural alterations of or additions to buildings; and*
- (d) *other operations normally undertaken by a person carrying on business as a builder.*

(2) *The following operations or uses of land shall not be taken for the purposes of this Act to involve development of the land—*

- (a) *the carrying out for the maintenance, improvement or other alteration of any building of works which —*
- (i) *affect only the interior of the building, or*
 - (ii) *do not materially affect the external appearance of the building”,*

This is not the full list. For all details see section 55, as referred to above.

- Local authorities are encouraged not to take enforcement action in cases where consent would have been granted, had a planning application been submitted. In such cases, those responsible for the development are encouraged to apply for retrospective planning permission. Although the retrospective nature of applications is now a material consideration, this is recent government advice at the time of drafting this guidance and therefore the implications are yet to be clarified by either further guidance or case law.
- Planning authorities have extensive enforcement powers, but their use is discretionary with enforcement action only being taken where it is appropriate to do so. Therefore planning enforcement is a matter of expediency.

Natural & Built (Historic) Environment

Local authorities have a range of enforcement provisions in relation to listed buildings, conservation areas, archaeological assets, protected trees and hedgerows. These are detailed in section 2.

2. Powers Available

Development Management

The key powers come from the Town and Country Planning Act 1990, as amended:

- *‘Planning contravention notices’* (section 171(c)) can be served where it appears that there may have been a breach of planning control and the council requires information about activities on the land or nature of the occupier's interest in the land, in order to determine whether or not a breach has occurred.
- *‘Requisition for information notices’* can be served to gather information on ownership of land or buildings prior to serving one of the notices listed below.
- *‘Breach of condition notices’* (section 187(a)) can be served where there is a failure to comply with any condition or limitation imposed on the grant of planning permission.
- *‘Enforcement notices’* (section 172) can be served to remedy an actual breach of planning control by requiring an unauthorised use to cease, building works to be

removed or improved, or engineering works to be ceased. A notice can also be served to restrict or condition a particular operation, which is otherwise unacceptable. There is a right of appeal against the notice.

- *'Proper maintenance of land and building notices'* (section 215 - often referred to as an 'untidy land notice' or simply a 'section 215 notice'), can be served to require work to be undertaken to improve the appearance of land or a building.
- *'Stop notices'* (section 183) have to be served in conjunction with an enforcement notice to require unauthorised activities to cease before the enforcement notice comes into effect. A recipient can claim compensation from the Local Planning Authority.
- *'Temporary stop notices'* (section 171(e)) can be served to require unauthorised activities to cease for 28 days; they are not required to be served with an enforcement notice.
- *'Injunctions'*. These can be sought in the County Court or High Court to restrain any actual, or anticipated, breach of planning control.

Additional powers were introduced by the Localism Act 2011. Notably:

- Section 70(c) Power to decline to determine retrospective applications where enforcement notices already exist.
- Section 171(BB) Enforcement orders relating to concealed development.
- Section 225(A) Power to remove structures used for unauthorised display, this relates to advertisements.
- Section 225(F) Power to remedy defacement of premises.

Recent powers were also introduced by the Anti-Social Behaviour, Crime and Policing Act 2014. Notably:

- *'Community Protection Notices'*, which can be used for planning enforcement, following the service of a formal warning letter (Section 43).

Powers also exist to regulate advertisements:

- Many advertisements can be displayed without the need to obtain advertisement consent from a local planning authority. These advertisements are classified as having deemed consent, and details of which type of advertisements that do not require an application are listed in the Town and Country Planning (Control of Advertisements) Regulations 1992 (as amended).
- However, there are times when, in the interests of public safety or public amenity, the council may wish to withdraw deemed consent for the display of such an advertisement. In such cases a 'discontinuance notice' can be issued in order to rescind deemed consent for the display of the advertisement.

- Where it is thought that an advertisement with deemed consent is harmful to public safety or amenity, and attempts at negotiation to either remove or improve the advertisement have failed, a 'discontinuance notice' can be served if it is considered expedient to do so. This can include advertisements in shop windows.
- More information on fly posting and the use of fixed penalty notices for advertisements is given in the 'Environmental Enforcement: Fixed Penalty Notices Operational Policy', which is appended to the overarching enforcement and prosecution policy as Appendix F.

Natural & Built (Historic) Environment

Listed Buildings

If a person plans to alter, extend or demolish a listed building in a way that affects its character as a building of special interest, there is a requirement to apply for listed building consent. This includes works to both the interior and exterior of a building plus works to curtilage listed outbuildings and boundary walls.

The key powers come from the Planning (Listed Buildings and Conservation Areas) Act 1990:

- '*Urgent Works Notice*' (Section 54) – a power that allows a local authority to directly carry out works that are required urgently to make an unoccupied or partly unoccupied listed building weather tight, or to provide temporary support, and thus prevent further deterioration. The works may only be undertaken once the owner has been given at least 7 days' notice in writing.
- '*Repairs Notice*' (Section 48) – a power that allows a local authority to specify to the owner works it considers reasonably necessary to secure the preservation of a listed building. If the repairs are not carried out by the owner, the LPA does not have the power to carry out the specified works but the power can lead to compulsory purchase of the building.
- '*Compulsory Purchase Order*' (Section 47) – when all other measures fail, the local authority's last resort can be to compulsorily acquire a listed building in order either to repair the property itself or more usually to sell it on to be restored by a buildings preservation trust or other new owner. The process is discretionary and cannot be started until a Section 48 Repairs Notice has been served on the owner at least two months previously.
- '*Listed Building Enforcement Notice*' (Section 38) - this is served where it appears that works have been or are being carried out without consent or in breach of a condition on a listed building consent.
- There are other powers that can be used to secure works to historic buildings including the Planning Act 1990, Section 215 notices and powers under the

Housing, Building, Local Government (Miscellaneous Provisions), Environmental and Community Protection Acts.

- ‘*Section 7: Prosecution*’ – this requires that works to listed buildings be authorised. If a person contravenes this section they are guilty of an offence. The local planning authority (LPA) may bring a prosecution and the maximum penalty upon conviction may be a term of imprisonment (up to a maximum of 2 years) and/or an unlimited fine.
- ‘*Section 59: Prosecution*’ – any relevant person who deliberately does or permits the doing of any act which causes or is likely to cause damage to a listed building will be guilty of an offence. The penalty would be a fine, upon conviction, not exceeding Level 3 on the standard scale.

Buildings in conservation areas

There is a requirement to obtain consent for the demolition of most buildings. Permitted development rights (the various categories of development that are normally allowed without the need to apply for planning permission) are more restricted within a conservation area.

Enforcement provisions include:

- ‘*Urgent Works (Section 54) Notice*’ – Under Section 76, the Secretary of State can direct that an unlisted building in a conservation area be treated as though it were listed. This allows the owner to be served with a Section 54 Notice and for the associated consequences to apply.

Archaeological Assets

The key powers in relation to ‘*designated assets*’ come from the Ancient Monuments and Archaeological Areas Act 1979. Part 1 of this Act relates to scheduled monuments, and Historic England (not the local planning authority) would undertake any such enforcement, where a Scheduled Ancient Monument (SAM) is directly affected.

Part 2 relates to formally government designated ‘Archaeological Areas’, of which we have one – The Hereford Area of Archaeological Importance (Hereford AAI). As regards the AAI, it is an offence to undertake any ground disturbing tipping and flooding works within its boundaries without first having served formal prior notification to the local planning authority.

Enforcement of AAI requirements may include the following options at our discretion (in increasing scale of case seriousness):

- i. Insisting that a notification is made retrospectively,
- ii. Occupying the site to make records and/or
- iii. Prosecution.

As regards '*undesigned assets*' there is no particular provision beyond normal planning provision and it would be anticipated that this route would be followed. It should be emphasised, however, that archaeology, in contrast to some things, cannot be 'replaced' or 'put back' once it is destroyed. The difficulty of mitigating de facto damage adds to the seriousness of such damage, and the challenge of dealing with it.

Trees

A Tree Preservation Order (TPO) prohibits works to a protected tree, including cutting it down without the local planning authority's written consent.

For trees in a conservation area, there is a requirement for people to notify the local planning authority six weeks before carrying out certain work on trees within conservation areas, unless a statutory exception applies. This notice period gives the authority an opportunity to consider whether to make an order on the tree. If no notice is given then the local planning authority may consider prosecution proceedings dependent on the works to the tree and if it would have been a tree that a TPO would have been made upon.

The key enforcement powers which apply to unauthorised works to both TPO trees and trees in a conservation area come from Part VIII of the Town and Country Planning Act 1990 as amended and in the Town and Country Planning (Tree Preservation)(England) Regulations 2012. These include:

- i. Serving a tree replacement notice
- ii. Prosecution

Hedgerows

The Hedgerows Regulations 1997 control the removal of countryside hedgerows, including uprooting. There is a requirement for people to notify the local planning authority six weeks before removing a countryside hedgerow, unless an exception applies. This notice period gives the authority an opportunity to consider whether to serve a Hedgerow Retention Notice, thereby protecting the hedgerow.

For breaches of the Hedgerow Regulations, enforcement options include:

- i. Serving a Hedgerow Replacement Notice and/or
- ii. Prosecution

3. Principles of Enforcement

These are set out in the 'Herefordshire Council Single Overarching Enforcement and Prosecution Policy', last revised on 10 January 2018 which can be accessed from the council's webpages.

In the approved guidance document "*Enforcing Planning Control: Good Practice Guide for Local Planning Authorities*" a list of "dos and don'ts" was included, which are reiterated below.

Amongst the “don’ts” were:

Don’t

- Enforce solely to regularise acceptable development,
- Enforce solely to obtain a fee and
- Seek to restore land to a better condition than it was before the breach took place.

Do’s included:

- Do have enforcement policies,
- Do be prepared to give reasons for taking action, or inviting applications or ignoring breaches of planning control,
- Do set priorities for action and
- Do have regard to the council’s obligations under other legislation.

These are not exhaustive but are included to illustrate some of the considerations to be taken into account.

Particular advice within the now superseded Planning Policy Guidance Note 18: Enforcement, dealt with breaches by businesses. Even in 1991 the tone was conciliatory with action only deemed appropriate if the business activity is causing irreparable harm. In such instances ‘*harm*’ means the impact upon adjacent uses or occupiers, for example noise, smell and highway safety. Mindful of the above Herefordshire Council will adopt the following approach to planning enforcement.

The Council’s Approach to Planning Enforcement

The public expects their complaints to be addressed with reasonable speed. However, amongst the complaints received there will be those that are not in fact planning matters and others that are more appropriately dealt with by other authorities or other services of the council.

It is recognised that complaints need to be investigated, and acted upon, quickly and efficiently. Existing enforcement workload often precludes immediate action on all complaints received and therefore the council has adopted a system of prioritising investigation of complaints based on the effect of the breach of planning control.

Once a site visit has identified the nature of the breach and the degree of harm caused by the breach, the complaint may be re-prioritised based on the harm caused to those aspects of acknowledged planning importance.

What is a breach?

Some examples are given in the table below, although this is not an exhaustive list:

Breach of planning control	Not a breach of planning control
<ul style="list-style-type: none"> • Unauthorised works to Listed Buildings, • Unauthorised demolition within Conservation Areas, • Unauthorised works to trees subject of a tree preservation order (TPO) or in a Conservation Area, • Unauthorised removal of countryside hedgerow, • Unauthorised advertisements, • Breaches of conditions attached to planning permissions, • Not building in accordance with the approved plans of planning permissions, • Untidy land where it adversely affects the amenity of the area, • Unauthorised engineering operations, such as raising of ground levels or earth bunds, • Unauthorised stationing of a caravan or mobile home for use as an independent dwelling, • Unauthorised material changes of use of land or buildings, and • Unauthorised building. 	<ul style="list-style-type: none"> • Internal works to a non-listed building, • Removal of garden hedges, • Obstruction of a highway public right of way) (or a private right of way, • Parking caravans on residential drive-ways or within the curtilage of domestic properties as long as they are incidental to the enjoyment of the property and permitted development rights have not been removed, • Land ownership or boundary disputes or trespass issues e.g. scaffolding erected on neighbouring property (these are private matters), • Covenants imposed on property deeds (these are private matters), • Any works that are deemed to be 'permitted development' under the Town and Country Planning (General Permitted Development) Order 2015 as amended, and • Advertisements that are excepted from deemed and express consent under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 as amended.

The term '*harm*' as it relates to planning enforcement, is expanded upon in the table below:

Harm can arise through a range of factors, such as:	Harm does not include:
<ul style="list-style-type: none"> • Noise nuisance or disturbance from a business operation, • Danger and disturbance due to significantly increased traffic flows, • Loss of privacy, • Adverse impact upon visual amenity, • Loss or damage to protected buildings or trees, including lack of regard for such buildings and conservation areas, • Development that undermines adopted planning policies, and/or • Untidy land or rundown buildings 	<ul style="list-style-type: none"> • Competition to business, • Loss of an individual's view, and/or • Loss of value of property

Though the council may seek retrospective applications where a development can be made acceptable through the imposition of conditions, it cannot insist that such an application is made.

The council's priorities and targets are set out below

Level 1 – High priority where there is a serious and urgent risk that the breach will result in irreversible damage to material planning interests or pose a serious highway safety risk. A site visit and investigations will normally be commenced within 1 working day for:

- Breaches of listed building control where demolition or alterations are taking place which are known to detract severely from the special architectural and historic interest of the listed building,
- Breaches of planning control in Conservation Areas or AONBs where there is clear evidence that immediate, irreparable and significant damage would be caused to the character or appearance of the Conservation Area, or the special landscape character of an AONB,
- Removal of hedgerows, works to trees protected by a Tree Preservation Order (TPO) and works to trees in Conservation Areas, where these hedges or trees

make a major contribution to the County's natural heritage and are under immediate threat,

- Breaches of control or conditions causing significant irreversible damage to the environment,
- Breaches of planning control which are resulting in serious damage to the biodiversity of a site in an area subject to special protection such as an SSSI, SAC or SWS, and
- Breaches of planning control which are resulting in permanent and serious damage to the archaeological interest of a site, especially where it is a Scheduled Ancient Monument (SAM).

Where appropriate, the above will be undertaken in conjunction with relevant technical officers of the Council.

Level 2 - Medium priority for breaches involving building operations. A site visit and investigations will usually be commenced within 5 working days for:

- Breaches of planning control involving building work or change of use and
- Breaches of planning control of conditions which could result in serious harm or loss of amenity or nuisance to a neighbourhood.

Level 3 – Low priority where investigations and, if necessary, a site visit will be commenced within 10 working days for:

- Development involving small domestic structures such as sheds or fences where the discrepancy from permitted development is major and the complainant has serious concerns regarding the effect on the amenity of their property,
- Breaches of control where the use is likely to be temporary and capable of being resolved without formal action,
- Breaches not included in levels 1 and 2 above, and
- Breaches of advertisement control.

4. What we will do?

The planning enforcement service will:

- Investigate alleged breaches of planning control which are reported by writing, by email or telephone. Anonymous complaints in category level 1 and 2 will be investigated.
- Promptly register such cases and acknowledge their receipt.
- Let complainants know what action (if any) we decide to take.
- Advise the local ward member of the matter and thereafter update them at appropriate stages of the investigation.
- Actively pursue, when considered appropriate to do so, those breaches of planning control which cause demonstrable harm.

- Those breaches relating to specialist areas of planning e.g. listed buildings, hedges/trees etc. may initially be investigated by the enforcement team, however subsequent visits/action may need to be in conjunction with those officers who cover such specialist work. In such instances the enforcement officer will lead, but rely on the specialist reports.
- Promptly close, without further action, those cases where there may have been a technical breach of planning control but where any public harm is insufficient to justify further action.

5. How we will do it?

- Prioritising cases in accordance with published priorities and investigating promptly those cases which are identified as serious.
- Allocate a named officer to each complaint.
- Retaining confidentiality regarding the identities of complainants.
- Undertake a site visit to assess the matter, to assess whether or not a breach has occurred and if so what harm is caused by it.
- Where there is no breach found, the complainant will be notified that no action is proposed.
- Negotiating with transgressors, giving them the opportunity to resolve breaches before formal action is taken, unless the breach is so serious it warrants immediate formal action or negotiation becomes protracted and / or is deemed unlikely to yield an acceptable outcome. In cases where planning permission or other related consents are required a timetable for receipt of such application will be set. Once that deadline has been reached a report on the appropriateness of action will be prepared, if the application has not been received. That deadline will depend upon the complexity of the case.
- Producing written appraisals for all established breaches. These appraisals will include consideration of relevant planning policies and any other material considerations and conclude with what action, if any, is deemed appropriate.
- If the LPA does not consider that formal enforcement action is expedient/appropriate, then the complainant will be notified of the reason(s) why the council is not taking any further action.

Formal enforcement action will not be initiated where it is not appropriate to do so. This can be, for example, where a minor or technical breach of planning control (including minor contraventions of General Planning Development Order limitations) has occurred which causes no harm (or will cause no potential harm) to public amenity in the locality of the site and where it is not in the public interest to do so. The council will not take action to solely regularise an acceptable development or obtain a planning application fee.

Appropriateness of action includes an assessment of the harm, as previously defined, compliance or otherwise with planning policy and other material considerations.

The principles of the council's planning enforcement policy are itemised below in the following five bullet pointed paragraphs:

- All complaints received by the council's enforcement team will be considered and, where appropriate, an initial site visit to verify the breach will be made and thereafter any initial priority rating may be amended to reflect the harm. The council's enforcement resources will be concentrated on those breaches causing the most harm or having the potential to cause major harm.
- Where development has been carried out without planning permission and unconditional planning permission would be likely to be granted, the owner/occupier will be informed of the implication of having done so and will be invited to submit an application to regularise the development. Where the owner or occupier fails to submit a planning application, a report on the appropriateness of action will be prepared. In such instances, formal enforcement proceedings will not normally be justified.
- Where development has been carried out without planning permission and it is considered that permission could be granted subject to conditions but the owner or occupier refuses to submit a planning application, an enforcement notice may be served. The effect of the notice would be to grant planning permission, provided the requirements of the notice have been carried out.
- Where unauthorised development has been carried out and is unacceptable and the owner/occupy fails to carry out satisfactory remedial action, an enforcement notice may be issued which allows for a realistic period of compliance for the building works to be demolished/improved or the activity to cease, be relocated, or its scale to be acceptably reduced.
- Where it is evident to the local planning authority, that serious attempts are being made to comply with the requirements of an enforcement notice, consideration will be given to waive or relax any requirement in that notice, including the compliance period.

6. Outcomes

In most cases formal action is not required and an investigation can be closed for a number of reasons, as set out below. These categories are used for monitoring purposes.

- No apparent breach (not development),
- No apparent breach (permitted development),
- Immune from action (4 or 10 year rule),
- Not appropriate to take action (no significant harm),
- Resolved through negotiation or compliance,

- Resolved by planning permission being approved, and/or
- Passed onto other service area.

7. Proactive Compliance

Resource permitting, when we are notified of commencement of development, most often by our building control team, we will check first to see if the development has/or requires planning permission. If it has permission, we will check that any pre commencements have been complied with. In the event that it has not, the matter will be investigated in accordance with the policy and procedure set out above.

Similarly, notification of licensing applications are checked in a similar manner. New planning permissions which are subject to time limit conditions will be monitored prior to expiry of the relevant condition to ensure that any resubmission, or compliance requirement is advised to the applicant in good time.

8. Start Notices

Herefordshire Council uses 'start notices'.

A pro forma sheet is sent out with the planning permission, or other relevant decision notice, which developers/applicant return prior to commencement of development. This will enable a timely check to ensure that any conditions have been dealt with and/or remind developers/applicants of the need to address conditions. There is no legislative requirement for this, they are purely voluntary in nature.

Developers should be aware that failure to comply with pre-commencement conditions could mean the development is unauthorised and is not capable of being made lawful by retrospective submission of those details. In such cases the application will need to be re submitted

Appendix D

Supplementary Environmental Health Housing Enforcement Policy

December 2017

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1.1 Introduction

Herefordshire Council carry out a wide range of legal duties under housing related legislation. These duties are applied by carrying out programmed inspections of premises, responding to complaints and offering advice.

This policy outlines the approach we take when considering enforcement action. It is intended to ensure that we deal with everyone in a consistent way. It applies to all private rented properties including Houses in Multiple Occupation (HMOs). It also applies to privately owned and occupied dwellings.

This policy complies with the Enforcement Concordat to which Herefordshire Council is a signatory and should be read in conjunction with the Councils' overarching enforcement and prosecution policy.

1.2 The enforcement concordat

The Enforcement Concordat outlines the principles of good enforcement and sets out what can be expected from local authority enforcement officers. It commits the council to adhere to good practice when enforcing policies and procedures. The policy can also be supplemented by additional statements of "enforcement policy" where relevant to the local priorities.

The primary function of central and local government enforcement work is to protect the public, the environment and groups such as consumers, workers and tenants. At the same time, carrying out enforcement functions in an equitable, practical and consistent manner helps to promote a thriving national and local economy. Herefordshire Council is committed to these aims.

The effectiveness of legislation in protecting consumers or sectors in society depends crucially on the compliance of those regulated. Herefordshire Council recognises that most landlords wish to comply with the law. To this end therefore, we will take care to help landlords and others, meet their legal obligations without incurring unnecessary expense, whilst taking firm action, including prosecution where appropriate, against those who flout the law or act irresponsibly. All citizens reap the benefits of this policy through better information, choice and safety.

Bearing in mind the above, Herefordshire Council, has therefore adopted the Central and Local Government Concordat on Good Enforcement. Included in the term "enforcement" are advisory visits and assistance with compliance as well as Licensing and formal enforcement action. By adopting the concordat the council commits itself to the following policies and procedures:

1.2.1 Principles of Good Enforcement Policy

In consultation with landlords and other relevant interested parties, including technical experts where appropriate, Herefordshire Council will draw up clear standards setting out the level of service and performance tenants and landlords can expect to receive.

1.2.2 Openness

The council will provide information and advice in plain language on the rules that we will apply and will disseminate this as widely as possible. We will be open about how we set about our work, including any charges that we set, consulting

landlords, voluntary organisations etc. The council will discuss general issues at landlord forums and landlord fairs, specific compliance failures or problems with anyone experiencing difficulties.

1.2.3 Helpfulness

The council believe that prevention is better than cure and that our role therefore involves actively working with landlords to advise on and assist with compliance. We will provide a courteous and efficient service and our staff will identify themselves by name. The council will provide a contact point and telephone number for further dealings with the Environmental Health Housing team and we will encourage landlords to seek advice/information from us. Applications for approval of works relating to private rented properties, including houses in multiple occupation (HMOs), will be dealt with efficiently and promptly. The council will ensure that, wherever practicable our enforcement services are effectively co-ordinated to minimise unnecessary overlaps and time delays.

1.2.4 Complaints about the Service

The council has a well-publicised, effective and timely complaints procedure easily accessible to landlords and the public. In cases where disputes cannot be resolved, any right of complaint or appeal will be explained with details of the process and the likely time-scales involved.

1.2.5 Proportionality

The council will minimise the costs of compliance for Landlords by ensuring that any action we require is proportionate to the risks. As far as the law allows, the council will take account of the circumstances of the case and the attitude of the landlord when considering action.

1.2.6 Consistency

The council will carry out its duties in a fair, equitable and consistent manner. While inspectors are expected to exercise judgement in individual cases, we will have arrangements in place to promote consistency, including effective arrangements for liaison with other authorities and enforcement bodies through schemes such as those operated by the Homestamp Consortium, the HMO Network and the Chartered Institute of Environmental Health (CIEH).

1.2.7 Procedures

Advice from an officer will be set out clearly and simply and will be confirmed in writing, on request, to any interested party, explaining why any remedial work is necessary and over what time-scale, and making sure that legal requirements are clearly distinguished from best practice advice.

Before formal enforcement action is taken, officers will provide an opportunity to discuss the circumstances of the case and, if possible, resolve points of difference, unless immediate action is required (for example, in the interests of health and safety or environmental protection or to prevent evidence being destroyed).

Where immediate action is considered necessary, an explanation of why such action is required will be given at the time and confirmed in writing, in most cases within 5 working days and in all cases within 10 working days.

Where there are rights of appeal against formal action, advice on the appeal mechanism will be clearly set out in writing at the time the action is taken (whenever possible this advice will be issued with the appropriate enforcement notice).

2.1 Policy Intention, Purpose and Scope

2.1.1 Policy Intention and Purpose

The aim of the Environmental Health Housing (EHH) Enforcement Service is to ensure good quality, healthy housing for all residents of Herefordshire. We will do this by:-

- having a staged proportionate response to complaints and enquiries ranging from information and advice to full inspection and enforcement,
- taking action in respect of those properties which present the greatest risk to the health and safety of vulnerable occupants,
- ensuring that we enforce the law in a fair, equitable and consistent manner,
- working with landlords and other to improve housing conditions and improve the quality of housing management in Herefordshire,
- assisting landlords and others in meeting their legal obligations,
- taking firm action against those who flout the law or act irresponsibly, and
- reviewing housing conditions in the county in order to come to well informed judgements.

2.1.2 Scope of Enforcement Policy in Relation to Tenure

In considering the most appropriate course of action, the council will have regard to the extent of control that an occupier has over works required to the dwelling. The HHSRS provisions of the Housing Act 2004 apply to all housing whether in owner-occupation, privately rented or social housing and it is usually the owner's responsibility to carry out works to reduce or eliminate hazards. Action can be taken against an owner-occupier but as owner-occupiers have control over any hazards in the home and tenants in the main do not, most enforcement action will involve requiring a private landlord or more rarely a Registered Social Landlord (Housing Association) to carry out works.

Where EHH have identified hazards and a Registered Social Landlord (RSL) has a programme of works to make their stock decent, and has signed up to the 'Herefordshire Council's Protocol for Dealing with RSL Complaints', the officer will take into account the programme when determining the most appropriate course of action; this will include liaising with the RSL over any works necessary to deal with category 1 and 2 hazards in advance of the planned improvements. In particular, with the space and crowding hazard, account will be taken of the availability of suitable alternative accommodation and the priority given to the allocation of alternative accommodation for tenants living in overcrowded conditions which are the subject of a category 1 or high category 2 hazard (see paragraph 3.2.2).

With owner-occupiers, in most cases they will not be required to carry out works to their own home, and informal action or a Hazard Awareness Notice is likely to be the most appropriate action. However, the council may in certain circumstances require works to be carried out, or to use Emergency Remedial Action, or serve an Emergency Prohibition Order, in respect of an owner-occupied dwelling. This is likely to be where there is an imminent risk of serious harm to the occupiers themselves or to others, or where the condition of the dwelling is such that it may adversely affect the health and safety of others outside the household. This may be because of a serious, dangerous deficiency at the property, or for example to carry out fire precaution works to a flat on a long leasehold in a block in multiple occupation.

An Improvement Notice or Prohibition Order may be suspended until a time or event specified, and in some cases may be more appropriate than a Hazard Awareness Notice. Typically the event will be a change of occupancy. For example, an Improvement Notice may be suspended at the wishes of an elderly occupier who does not want the disturbance of extensive works, or where the vulnerable age group is not present. The notice might require an owner to notify the Council of a change of occupancy to ensure that the notice can be reviewed.

3.0 Enquiries and Inspections

3.1 Enquiries

The council will not normally investigate anonymous requests for service unless there are other sources of information to indicate the likelihood of a Category 1 hazard within the dwelling or serious breaches of housing law. Enquiries will be passed through a triage system to ensure urgent action is directed to the highest risk cases.

3.1.1 Emergency/Life and Limb requests:

Emergency/Life and Limb requests are usually generated where premises are rented from a private landlord*. Environmental Health Housing will endeavour to contact the complainant or person requesting assistance within 24 hours during the normal working week. Issues to be treated as an emergency include:

- Collapsed ceilings
- Gas, water or electricity disconnections where the owner or agent has failed to pay the bill.
- Defective gas electrical installations
- Lack of suitable fire precautions

For the above reasons, where there is a danger to life or limb, we aim to respond by inspecting the premises or contacting the complainant as soon as possible. The response will generate the appropriate course of action for the circumstances, be it informal advice, intervention or the service of a notice. Environmental Health Housing aim to respond to the request for assistance, including the service of any Notices requiring urgent works within **7 working days** of site inspection.

* a private landlord includes Registered Social Landlords (usually Housing Associations)

3.1.2 Non-Emergency Cases

Other requests for service emanating from premises which are rented from a private landlord will be responded to within triage arrangements. Less urgent enquires that require an inspection will be carried out within **20 working days**. In order to empower tenants, most non urgent cases will be sent a tenant self help pack within **5 working days**. This triage response will initially involve advice to the tenant and landlord in writing but will ultimately lead to inspection if an informal resolution is not achieved or there is a threat of eviction by the landlord (see 3.1.3 below). Requests for advice will be addressed within **28 working days**.

Longer-term improvements to a property may include repairs, works for means of escape in case of fire and other fire precautions works and significant defects caused by poor management.

3.1.3 Cases Involving Threat of Eviction

Tenants should always report any disrepair or poor conditions that may arise to the landlord as soon as possible and should put their complaint in writing. In order to rely on the protection against retaliatory eviction that the Deregulation Act 2015 provides, a tenant must in the first instance approach the landlord in writing with details of the disrepair or poor conditions; non-emergency cases reported to EH Housing will normally be handled through the Triage system that encourages tenants to contact their landlord in writing in the first instance.

If, the landlord responds by issuing a section 21 eviction notice, the tenant should approach EH Housing to carry out an inspection to verify the need for a repair.

Tenants will need to supply the local authority with evidence that they have put their complaint in writing to the landlord before the issuing of a section 21 eviction notice. In such cases EH Housing will arrange to inspect the property **within 20 working days**. If the inspection verifies the tenant's complaint, the officer will take the most appropriate course of action as detailed in paragraph 5.2 of this policy. Officers will need to be mindful of the need to serve a relevant notice if appropriate to invoke protection from eviction, even if the first course of action would normally be to engage informally with the landlord to try and resolve the problem(s). Where the Local Authority serves an Improvement Notice or Notice of Emergency Remedial Action, the landlord cannot evict the tenant for 6 months using the no-fault eviction procedure.

3.2 Housing Inspections

3.2.1 General Housing Inspections

The Housing Act 2004 introduced a system for assessing housing conditions, known as the Housing, Health and Safety Rating System (HHSRS), which is to be used in the enforcement of housing standards in all types of residential accommodation.

The system is structured around an evidence based risk assessment procedure, which considers those hazards that may be present in a dwelling from a list of 29 hazards. The risk that any such hazards may present to the most vulnerable potential occupant of that dwelling are then used to generate a hazard score. That score is, on the basis of a numerical value, then classified as a Category 1 hazard or a Category 2 hazard. Category 1 hazards can further be sub-divided

into those banded A - C. Category 2 hazards can be sub-divided into those falling within bands D – J and which reflect a lower risk.

Under the Housing Act 2004, Herefordshire Council has a duty to take appropriate enforcement action where there is a Category 1 hazard, and has the discretionary power to take appropriate enforcement action where there is a Category 2 hazard. Therefore, to ensure a consistent approach to housing enforcement by Officers, the council has adopted a formal policy for enforcement under the Act.

3.2.2 Overcrowding Inspections

HHSRS provisions of the Housing Act 2004 includes 'crowding and space' and these will be used to determine overcrowding in preference to the statutory overcrowding standard in Part 10 of the Housing Act 1985

The HHSRS operating guide outlines the ideal conditions for space depending on age and gender mix, and the size and number of the rooms available for sleeping; these generally mirrors the bedroom standard. Unlike all other housing risks, crowding and space hazard is assessed in two stages by considering the property with and without the current occupants.

An Order prohibiting use of the property should only to be served in the event of a Category 1 hazard where there is "severe overcrowding" (the property lacks 2 or more bedrooms based on the bedroom standard) and there is a strong threat to health or safety. In these cases, action should be co-ordinated between all parties including the landlord, Homeless Prevention Team, Homepoint and Environmental Health Housing to re-house affected individuals as soon as possible.

3.3 Inspection of Houses in Multiple Occupation (HMO)

All Houses in Multiple Occupation (HMOs) and Flats in Multiple Occupation (FMOs) will be inspected pro-actively on the basis of risk to the occupier(s) using the Environmental Health Housing's hazard ranking system.

Proactive inspections will also be a function of the HMO Licensing scheme so that these properties comply with the Council's standards and are appropriately managed by a fit and proper person. The Council is required to inspect and address housing hazards within 5 years of issuing a HMO licence for a property.

In addition to the HHSRS, Herefordshire Council will use Management Regulations under Section 234 of the Housing Act 2004 to impose duties on landlords and managers in Houses in Multiple Occupation, whether or not it is subject to licensing. Decisions as to whether it is appropriate to prosecute landlords for breach of the regulations will be considered in accordance with the enforcement policy.

4.0 Authority to take Action and Powers of Entry

4.1 Authority to take action

Herefordshire Council has authorised officers to carry out inspections of dwellings and HMOs using the Housing, Health and Safety Rating System and relevant housing Regulations. All officers may act on behalf of the Council where they consider housing conditions and their associated hazards impact the health and safety of occupants and visitors or that there have been breaches of relevant housing legislation.

Those officers who have successfully completed training courses accredited by the Communities and Local Government (CLG) are authorised to sign and serve notices as detailed in the Environmental Health Housing authorisation document in appendix A. Where mention is made in this policy to action by the council, the council will act through its officers in accordance to the level of authorisation given.

4.2 Powers of entry under the Housing Act 2004

Section 239 and Part 1 of the Housing Act 2004 enable the Council to carry out inspections to see if Category 1 or 2 hazards exist.

Before entering the property, 24 hours' notice must be given to the owner/landlord and occupier(s). However, where the Council consider that any premises need to be entered for the purpose of ascertaining whether an offence has been committed under section 72 (HMO licensing), 95 (selective HMO licensing) or 234(3) (HMO management Regulations) no prior notice need be given.

Section 240 allows the council to apply to a justice of the peace for a warrant which can include forced entry.

A person exercising power of entry under the Housing Act 2004 may:

- (a) take other persons with them;
- (b) take equipment or materials with them;
- (c) take measurements or photographs or make recordings;
- (d) leave recording equipment on the premises for later collection;
- (e) take samples of any articles or substances found on the premises.

Section 235 gives the council power to require production of documents to enable them to carry out enforcement functions.

5.0 Enforcement Options

Prior to any formal enforcement action, it will be necessary for Environmental Health Housing to undertake a full investigation into the condition, occupation and ownership of a property in order to determine on whom a Notice should be served and copies made available. Where the council intends to serve a Works Notice in respect of long-term improvements of a property, we shall aim to serve this within **one month** of the inspection of the property.

Enforcement action will be:

- i) Proportionate to the risk to health and safety;
- ii) Applied consistently by all officers;
- iii) Targeted;
- iv) In accordance with any guidance issued by Communities and Local Government.
- v) To consult Hereford and Worcester Fire and Rescue Service as appropriate before taking enforcement action in respect of prescribed fire hazards in a House in

Multiple Occupation (HMO) and in the common parts of a building containing flats. The procedure will extend to premises covered by the Regulatory Reform (Fire Safety) Order 2005 relating to fire authorities and any agreed protocol between the two authorities;

- vi) To consult the council's Built & Natural Environment (Listed Buildings) Team as appropriate,
- vii) To ensure that inspectors follow the enforcement policy when making enforcement decisions, that variations from the policy are justifiable in terms of the risk to health and safety and are taken after full consultation with the appropriate senior officer. Ensure that all officers are kept up to date with the requirements of the policy;
- viii) To maintain documented policy on enforcements. The policy will be reviewed at regular intervals and when there are relevant changes to the legislation or guidance. Any review will be considered in accordance with the council's procedure for reviewing these Policies and will include consultation with relevant stakeholders;
- ix) To ensure that all officers have received suitable training and are confident in carrying out their duties;
- x) To make the Housing Enforcement Policy or a summary of the policy available to any interested parties. (i.e. web site);
- xi) To produce any further procedures that promote consistency of enforcement amongst its officers;
- xii) To produce procedures to enable persons aggrieved by officers actions to make representations to the council;
- xiii) To consult with the owner and occupier, and any other relevant person prior to pursuing enforcement action.

It is the policy of Herefordshire Council to ensure that enforcement action is always taken in a fair and consistent manner and in proportion to the risk to health and safety. To help achieve this, the council will make reference to guidance from Communities and Local Government.

5.1 Level of enforcement

When deciding which level of enforcement to take, the Council will consider the following criteria:

- i) The risk to health and safety
- ii) The current occupants and their views
- iii) The turnover rate of tenancies
- iv) The likelihood that the property will become occupied by a member of a group who could be at particular risk.
- v) The relevant person's attitude towards the hazards identified
- vi) The consequences of non-compliance.
- vii) The cost of compliance
- viii) The likely effectiveness of enforcement options under consideration.
- ix) The history of past compliance

For the purposes of this policy the “relevant” person can be taken to refer to the individual or company who could be the subject of enforcement action.

5.2 Enforcement options

Enforcement options available to The Herefordshire Council under part 1 of the Housing Act 2004 are:

- i) To issue Hazard Awareness notices
- ii) To serve Improvement Notices
- iii) To serve Prohibition Orders
- iv) To take Emergency Remedial Action (not available for Category 2 hazards)
- v) To serve Emergency Prohibition Orders (not available for Category 2 hazards)
- vi) To make a Demolition Order (not available for Category 2 hazards)
- vii) To declare a Clearance Area (not available for Category 2 hazards)
- viii) To issue a fixed penalty notice.

The above actions are not exclusive when dealing with the same hazard in the same premises. However, the council can take a different course of action, or the same course of action again, if the initial action has not proved satisfactory. Emergency measures are the exception to the above rule.

For example, where Emergency Remedial Action is required followed by an Improvement Notice or Prohibition Order, it is considered to be a single course of action.

When taking Enforcement Action the Council will prepare and serve with any Notice or Order under Part 1 of the Act, or any copy of a Part 1 Notice or Order, a statement of reasons for the decision to take enforcement action.

The statement will include an explanation as to why a particular course of action is taken in preference to the other forms of available action.

When enforcement action leads to the Declaration of a Clearance Area, a statement of reasons must be published after the resolution, declaring that the area will be defined as a clearance area under Section 289 of the Housing Act 1985.

A reasonably practicable, proposed enforcement action will be discussed with the relevant person prior to the service of any notice or order under Part 1 of the Act, and representations sought.

5.2.1 Hazard Awareness Notices (Sections 28 and 29)

A Hazard Awareness Notice under Section 29 (notice relating to a Category 2 hazard) may be a reasonable response to a less serious hazard, where the authority wishes to draw attention to the desirability of remedial action.

A Hazard Awareness Notice under Section 28 (notice relating to Category 1 hazard, and no Management Order is in place under Part 4) may be an appropriate course of action as a means of advising the relevant person that a

Category 1 hazard exists on the residential premises. This would be appropriate in circumstances where remedial action or prohibition is unreasonable or impractical.

A Hazard Awareness Notice may be the preferred course of action, instead of an Improvement Notice, where the relevant person has agreed to take remedial action and the Council are satisfied that the work will be done within a reasonable time scale.

When taking informal action of any nature, inspectors will clearly differentiate to the alleged offender what is legally required and what is recommended as good practice.

In summary, it is The Herefordshire Council's policy that Hazard Awareness Notices will be the preferred course of action on residential premises where:

- i) the hazard(s) are all of Category 2; or
- ii) in the case of Category 1 hazards the Council is fully satisfied that the relevant person will take suitable remedial action within a suitable timescale; or
- iii) the circumstances are such that improvement or prohibition is unreasonable or impractical.

The service of a Hazard Awareness Notice does not preclude formal action, should an unacceptable hazard remain.

All notices and accompanied documents will be sent as soon as possible.

Hazard Awareness Notices will be drafted in accordance with the relevant sections of the Housing Act 2004 as determined by the category of hazards.

5.2.2 Improvement Notices (Sections 11 and 12)

An Improvement Notice under Section 11 will be an appropriate course of action where a Category 1 hazard exists in a residential premises, where no management order is in place under Part 4 of the Act. An Improvement Notice served under this section must be for a Category 1 hazard.

An Improvement Notice under Section 12 may be an appropriate course of action where a Category 2 hazard exists on residential premises, where no management order is in place under Part 4 of the Act. A Notice served under Section 12 requires the relevant person to take suitable remedial action in respect of the hazard(s).

In summary, Improvement Notices will be the preferred course of action on residential premises where:

- i) There is a Category 1 hazard(s) present
- ii) There is limited confidence that the relevant person will respond to a Hazard Awareness Notice within a reasonable time; or

- iii) There is no confidence in an unprompted offer by the relevant person to undertake necessary remedial action associated with that risk (Category 2 only); or
- iv) The relevant person will not confirm in writing their unprompted offer to undertake the necessary remedial action (Category 2 only).

Improvement Notices will be drafted in accordance with Section 13 of the Housing Act 2004.

When the Notice becomes operative there will be a Local Land Charge on the premises to which it relates. This means that it will be recorded on the Register of Local Land Charges kept by the Council. This register is public and anyone can search for entries upon payment of a fee. House purchasers will normally search this register.

Inspectors will not issue Improvement Notices unless they are confident that there is sufficient evidence to defend an appeal against the Notice.

All notices will be accompanied by information on the appeal procedure and the time limits for such an appeal.

5.2.3 Suspension of Improvement Notices (Section 14)

An Improvement Notice, may, for the operation of the Notice be suspended until a time, or the occurrence of an event specified in the Notice. The purposes of suspension will normally be to allow the council to prioritise action. Suspension of an Improvement Notice may be the preferred course of action where:

- i) It is appropriate to wait until a person of a particular description begins, or cease to occupy the premises; or
- ii) In the case of an event where a person on whom the notice was served, does not comply with an undertaking given to the Council.

5.2.4 Revocation or Variation of Improvement Notices (Section 16)

Where the council are satisfied that the Improvement Notice has been complied with, any such Notice will be revoked. Herefordshire Council may also, at their discretion, revoke an Improvement Notice where it is deemed that there are special circumstances (except of a Category 1 hazard), or where (Category 2 hazard) it is considered appropriate.

In the case of a notice that applies to more than one hazard, requirement of the preceding paragraph will apply to each of the hazards individually.

The Council may also vary Improvement Notices in the following circumstances:

- i) Where parts of a notice, which relates to more than one hazard have been revoked, the remainder of the Notice may also be varied as considered appropriate; or
- ii) With the agreement of the person on whom the notice was served; or
- iii) In the case of a suspended Improvement Notice, so as to alter the time or event specified that triggers the end of suspension.

5.2.5 Renewal of Suspended Improvement Notices (Section 17)

Suspended Improvement Notices will be approved in accordance with Section 17 Housing Act 2004.

5.2.6 Prohibition Orders (Sections 21 and 22)

A Prohibition Order made under Section 21 may be an appropriate course of action, where a Category 1 hazard exists on residential premises, where no management order is in place under Part 4 of the Act. An order made under this section may prohibit the use of part or all of the premises for some or all purposes, or occupation by a particular number or descriptions of people.

Section 22 makes an equivalent provision for a Prohibition Order to be made where a Category 2 hazard exists on residential premises, where no Management Order is in place under Part 4 of the Act.

Prohibition Orders will be the preferred course of action relevant to the actual premises where:

- i) there may be a serious threat to health and safety and remedial action is considered unreasonable or impractical, i.e. where the work cannot be carried out with the tenant in residence; or
- ii) the dwelling is overcrowded as regard space and/or amenities numbers in occupation; or
- iii) where a dwelling presents a serious threat to the health and safety to a specific group of persons, which is relatively safe for occupation; or
- iv) the relevant person will not confirm in writing the unprompted offer of voluntary prohibition (Category 2 hazards only).

Prohibition Orders will become operative in accordance with Section 22 of the Housing Act 2004.

When the Notice becomes operative there will be a local land charge on the premises to which it relates. This means it can be recorded in the Register of Land Charges kept by the Council. This register is public and anyone may search for entries in it upon payment of a fee. House purchasers will normally search this register.

Inspectors will not issue Prohibition Orders unless they are confident that they have sufficient evidence to defend an appeal against the Order.

5.2.7 Suspension of Prohibition Orders (Section 23)

A Prohibition Order may, for the operation of the order, be suspended until a time when the occurrence of events specified in the order have been dealt with. Suspension of a Prohibition Order is at the discretion of the council and it may be the preferred course of action when:

- i) it is appropriate to wait until a particular circumstance ends, or a person departs, or ceases to occupy the premises; or

- ii) in case of an event, where a prohibition notice was served, was not complied with by an undertaking being given to the council.

5.2.8 Emergency Prohibition Orders (Section 43)

If the council are satisfied that a category 1 hazard exists on any residential premises, and that the hazard involves an **imminent risk of serious harm** to the health or safety of any of the occupiers of those or any other residential premises, then the making of an Emergency Prohibition Order is a course of action available.

An Emergency Prohibition Order imposes, **with immediate effect**, prohibition(s) on the use of any premises in a similar manner to a standard Prohibition Order.

5.2.9 Revocation and Variation of Prohibition Orders (Section 25)

Where the council is satisfied that a hazard, in respect of which a Prohibition or Emergency Prohibition Order was made, no longer exists, any such order will be revoked. Herefordshire Council may also, at their discretion, revoke a Prohibition Order where it is deemed special circumstances exist (in respect of Category 1 hazard), or where (in the case of a Category 2 hazard) it is considered appropriate.

5.2.10 Emergency Remedial Action

Where the council is satisfied that a Category 1 hazard exists on a residential premises and is further satisfied that the hazard presents an imminent risk of serious harm to the health and safety of any occupiers, the council will enter the premises at any time in order to take emergency remedial action.

This power will only be used where there is:

1. an imminent risk of serious harm
2. limited action that could be taken under an Improvement Notice under S.11 or an Improvement Notice that has not been complied with.

5.2.11 Clearance Areas

The council may decide to declare a clearance area where it is satisfied that:

- i) Individually, each of the residential buildings in the area contain a Category 1 hazard, and
- ii) that the other buildings (if any) in the area are dangerous or harmful to the health or safety of the inhabitants of the area; or
- iii) the residential buildings in the area are dangerous or harmful to the health or safety of the inhabitants of the area as a result of their bad arrangement or the narrowness or bad arrangement of the streets; and
- iv) the other buildings (if any) in the area are dangerous or harmful to the health or safety of the inhabitants of the area.

The council may decide to declare a clearance area where it is satisfied that:

- i) each of the residential buildings in the area contains a Category 2 hazard,

- ii) that the other buildings (if any) in the area are dangerous or harmful to the health or safety of the inhabitants of the area.

5.2.12 Prosecution

Prosecution will (only) be considered as a course of action where there has been a failure to comply, “without reasonable excuse” with requirements of an operative improvement notice or prohibition order. The decision or timescale to prosecute may be influenced by the presence of one or more of the following criteria:

- i) where there is a history of similar offences
- ii) where as a result of failure to comply there is a risk of an accident or a case of ill-health
- iii) where there appears to be a reckless disregard for the health and safety of occupants and/or others;
- iv) false information has been supplied wilfully, or there has been an intent to deceive, in relation to a matter which gives rise to a serious risk;
- v) inspectors have been intentionally obstructed in the lawful course of their duties.

All evidence will be gathered in accordance with the Police and Criminal Evidence Act 1984 and associated codes of practice.

Before a decision to prosecute is taken the officer, together with the Environmental Health Service Manager and the council’s solicitor, must be satisfied that both the “Evidential Tests” and the “Public Interest Tests”, as required by the council’s constitution and as contained within the code for Crown Prosecutors.

When a prosecution is proposed, the case file will be submitted to the council’s solicitor as soon as possible for consideration.

5.2.13 Simple Cautions

Simple Cautions may be appropriate where someone has admitted to an offence, or where it is their first offence of this type or they have assisted officers in remedying the situation that led to the offence. For example applying for a licence as soon as they are able or quickly complying with the requirements of a notice. Simple Cautions warn people that their behaviour has been unlawful and makes them aware of the legal consequences should they commit further offences. Where a person declines the offer of a formal caution, the appropriate officer will reconsider the case.

5.2.14 Civil Penalty Charges and Notices

Certain legislation enables the Council to serve a Penalty Charge Notice or Monetary Penalty Notice. Failure to pay a civil penalty may result in the Council bringing prosecution proceedings or in the recovery of the charge as a debt through courts action. EHH is responsible for enforcing the following requirements that can be subject to a civil penalty:

- Failure to comply with a notice requiring the provision of a smoke or carbon monoxide detector (£5000 maximum). See item 12 below.

- Failure to have a valid Energy Performance Certificate (EPC) for a rented property. (£200 maximum).
- From 1st April 2018, failure to comply with new energy efficiency requirements for rented properties. (£5000 maximum).
- Failure to display details of the Government approved redress scheme that businesses are a member of. (£5000 maximum).
- Failure to display fees that apply to landlords agents and tenants. (£5000 maximum).
- Failure to be a member of a Government approved residential lettings or management redress scheme when required to do so. Government guidance states that the expectation is that for this contravention, a £5,000 penalty should be considered the norm and that a lower penalty should only be charged if the Council is satisfied that there are extenuating circumstances. It will be up to the Council to decide what such circumstances might be, taking into account any representations the lettings agent or property manager makes during the 28 day period following the authority's notice of intention to issue a penalty.

Civil Penalty Notices in The Housing and Planning Act 2016 gives the council the power to issue Civil Penalty notices of up to £30,000 as an alternative to prosecution, where there is evidence beyond reasonable doubt of certain offences i.e. failure to:

- comply with an improvement notice,
- license a property which requires a HMO licence,
- comply with HMO licence conditions or occupancy requirement,
- comply with an overcrowding notice, or
- comply with HMO management regulations requirements.

The decision when to prosecute, agree a simple caution or when to issue a civil penalty will be made on a case-by-case basis in line with this policy and relevant statutory appeal rights are provided with any notice served.

Civil Penalties can be used where a breach is serious and the council may determine that a significant financial penalty (or penalties if there have been several breaches), rather than prosecution, is the most appropriate and effective sanction in a particular case.

The government have issued statutory guidance to councils on the use of Civil Penalty notices under the 2016 Act. The council has also published its own policy on how it will decide on the level of financial penalty that is in accordance with the government guidance.

5.2.15 Fines Recovery of Costs and Proceeds of Crime

The upper limit for fines in the Magistrates Court has been removed; this means if found guilty of an offence there is no maximum fine.

In some cases the Council can apply to court to recover rent from a landlord if a property has been let illegally. Officers will provide Legal Services with all the relevant information to enable the recovery of costs to be sought at Court. Any costs application made is likely to include the time officers have spent investigating a case and the legal costs involved.

5.2.16 Rent Repayment Orders

Rent Repayment Orders (RRO) can be made by a First Tier Tribunal where they are satisfied beyond reasonable doubt that a landlord has committed certain offences (whether the landlord has been convicted of that offence or not). The landlord can be required to repay up to 12 months rent, either to a tenant for rent paid or a council for housing benefit or universal credit paid in relation to the rent of a property. The relevant offences are:

- Violence for securing entry
- Illegal eviction or harassment of occupiers
- Failure to comply with an improvement notice or prohibition order
- Failure to license a property which requires a licence
- For breach of a banning order

Councils must consider applying for an RRO if they become aware of someone being convicted of one of the offences which can lead to an RRO. The council can also help tenants apply for an RRO. Applications for an RRO can be made in addition to other formal action taken in relation to the same conduct.

- When deciding whether or not to apply for an RRO the Council's policy is to:
- Treat each case on its own merits
- Ensure that applying for an RRO would meet the enforcement objectives in this policy
- Consider the impact of the breach on the occupier or others affected by the offence committed.
- Consider the likelihood of the application being successful.
- The level of resources it will take to make a successful application
- Whether it is more appropriate for the tenant to apply for the order themselves.

The Council will also have regard to the statutory guidance issued on applying for an RRO.

6.0 Works in default (Section 31, Schedule 3)

The council may in certain circumstances carry out works detailed in an Improvement Notice. Such action may be taken with or without the agreement of the person on whom an Improvement Notice was served.

When taking action with the agreement of the person on whom an Improvement Notice has been served, the council may take any action that is required in relation to the Notice. However, taking action by agreement, will only generally be considered where it is felt that the relevant person is for whatever reason incapable of organising, executing and overseeing the necessary works. Any such work undertaken will be at the expense of the person on whom the Improvement Notice was served.

Taking action without the agreement of the person on whom an Improvement Notice has been served, will be considered as a course of action in any of the following circumstances:

- i) where a person has failed without "reasonable excuse" to comply with the requirements of an Improvement Notice,

- ii) reasonable progress, in relation to the requirements of the Notice is not being made

7.0 Power to charge for enforcement action (Section 49)

The Housing Act 2004 allows councils to charge for taking enforcement action. Some other legislation also allows councils to recover costs for officer's time and expenses needed to determine what works need to be carried out in default. It will be the policy of Herefordshire Council to make a reasonable charge for taking enforcement action in the following circumstances:

- i) where the relevant person has failed to fulfil an undertaking to carry out the necessary works appertaining to hazard(s) (for example in a formal consultation letter) or to carry out a Prohibition which otherwise would have been the subject of formal enforcement,
- ii) where the relevant person has failed to comply, without reasonable excuse, with the requirements of an Improvement Notice, Prohibition Order or Demolition Order, or
- iii) in the case of emergency remedial action or an Emergency Prohibition Order, where matters giving rise to the hazard(s) were reasonably foreseeable and/or due to the failure to suitably manage the premises.

The Environmental Health Housing Service will recover costs and fees when formal action is taken where it is reasonable to expect the owner to pay for the charges in the circumstances. Costs will be regularly reviewed and published. There will be discretion to waive the charge when it is not reasonable to expect a person to pay for the enforcement action taken i.e. where the reason for the charge was outside of the control of the person charged or persons acting on their behalf. Where expenses are to be charged they will be made relating to all stages of enforcement as detailed in Section 49 in the Housing Act 2004.

Expenses will be recovered in accordance with Section 50 of the Housing Act 2004, by a demand for payment of the charge.

At the time that the demand becomes operative, the sum recoverable together with the interest accrued will, until recovered, be registered as a local land charge on the premises concerned. Interest will be added to outstanding charges at 4% above the current Bank of England base rate annually using a daily compound interval.

8.0 Power to recover certain expenses (Schedule 3)

The council is given powers to carry out works in default where a person has been required to do works but has failed to do so. The work in default powers are provided in the legislation being used in relation to a case.

In most circumstances a person will be given notice of the council's intention to carry out works in their default. The cost of the works will be recovered in accordance with the relevant statutory provisions. It should be noted that such charges are an addition to the administrative and other costs to be recovered as laid out above.

Expenses will be recovered by demanding a payment of the charge. At the time that the demand becomes operative, the sum recoverable together with the interest accrued will, until recovered, be registered as a local land charge on the premises concerned. Interest

will be added to outstanding charges at 4% above the current bank rate calculated on a daily basis.

9.1 Houses in Multiple Occupation

9.1.1 Licensing of Houses in Multiple Occupation

Part 11 of the Housing Act 2004 covers the Mandatory and Discretionary Licensing of Houses in Multiple Occupation.

The Housing Act 2004 Section 254 provides a new definition of an HMO.

A “House in Multiple Occupation” means a dwelling, or part of a building:

- that is occupied by more than 1 household sharing an amenity such as bathroom, toilet or cooking facilities (the standard test); or
- is occupied by more than one household, which is a converted building, which does not entirely comprise self-contained flats (whether or not they are sharing amenities); (the self contained flat test) or
- comprises entirely of converted self-contained flats and the standard conversion does not meet that required by the 1991 Building Regulations and more than one third of the flats are occupied under short tenancies. (the converted building test).

9.1.2 Exemptions

Certain types of buildings will not be HMOs. These include:

- i) Managed or owned by a public body (such as the NHS or Police) or a local Housing Authority or a Registered Social Landlord.
- ii) Where the residential accommodation is ancillary to the principal use of the building e.g. religious establishments, conference centres etc.
- iii) Entirely occupied by freeholders or long leaseholders and their households.
- iv) Occupied by no more than two households each of which comprise a single person (i.e. two person flats).

9.1.3 Licensing and the link with Housing Health and Safety Rating System

HMO Licensing is linked to the HHSRS. Section 55 gives local authorities a duty to ensure that there are no Category 1 hazards in an HMO within 5 years of licensing.

9.1.4 HMO Declarations

Under Section 255 where the council is satisfied that a building or part of a building is being occupied by persons as their only or main residence which has a mixture of uses, the council can declare the building an HMO.

9.1.5 Mandatory Licensing of HMOs

Mandatory Licensing applies to three or more storey properties occupied by five or more persons comprising of two or more households.

Storeys include basements, attics, commercial units and mezzanine floors. Mixed used properties will be counted by storey e.g. shop ground floor with two storey HMO above equals a three storey HMO.

For the purpose of HMO Licensing, a person includes children from birth.

It is an offence, under section 72 to operate a HMO that should be licensed under the provisions of Part 2 without a licence.

The government intends to widen the scope of mandatory licensing in 2018 by removing the three-story requirement. Therefore, most dwellings occupied by five or more unrelated persons will require a licence after April 2018; this will include flats above shops and single story buildings.

9.1.6 Temporary Exemption from Licensing

Under Section 62 the council may grant a Temporary Exemption Notice (TEN) where it is satisfied that the owner is taking steps to stop using the property as an HMO e.g. if the owner has applied for planning permission to convert the property back into a single family dwelling.

A TEN can be granted for a maximum of 3 months but in exceptional circumstances may be granted for a further 3 months. No more than two consecutive TEN's can be granted.

9.1.7 Applications for Licences

Under Section 63, a person owning or managing an HMO which is required to be licensed must apply to The Herefordshire Council for a Licence for each property. Charges for a HMO licences or re-licence will be reviewed at least every 3 years in line with current guidance from Communities and Local Government and published on the Councils website.

Herefordshire Council must grant a licence if it is satisfied that:

- The HMO is reasonably suitable for occupation by the number of persons permitted on the Licence.
- The licence holder is a fit and proper person.
- The proposed licence holder is the most appropriate person to hold the licence.
- The proposed manager, if not the licence holder is fit and proper and the proposed management arrangements are satisfactory, including that the person involved in the management of the house is competent and the structures and funding for the management are suitable.

9.1.8 Fit and Proper Person

Under section 66, the local Authority has to decide whether a Licence Holder or Agent is fit and proper.

The Council must have regard amongst other matters to:

- Any previous convictions relating to violence, sexual offences, drugs or fraud.
- Whether the proposed Licence Holder has contravened any laws relating to housing or landlord and tenant issues
- Whether the person has been found guilty of unlawful discrimination practices

- Whether the person has managed HMO's otherwise in accordance with any approved Code of Practice.

Relevant convictions do not automatically mean a person cannot be deemed fit and proper. The Council must give consideration to any convictions alongside a Landlord taking training or engaging with Council initiatives.

9.1.9 Additional Licensing

Herefordshire Council's additional licensing scheme under Section 58 of the Housing Act 2004 came to an end in April 2009. There is currently no intention to reinstate an additional licensing scheme in Herefordshire.

9.1.10 Refusal of Licence

If under Section 64, the council is not satisfied that it cannot grant a licence under the above conditions then it must refuse to grant the Licence and make an Interim Management Order. The council must give the applicant reasons in writing and allow 14 days for representations.

9.1.11 Appeals

All appeals against licensing, (fit and proper person), TEN's and HMO declarations will go to the Residential Property Tribunal which is part of the Lands Tribunal.

An appeal may be made if the council:

- Refuse to grant a licence
- Grant a licence but impose conditions
- Vary a licence
- Revoke a licence,
- Refuse to vary or revoke a licence.

There is a 28 day appeal period.

9.1.12 Contents of Licence

Under Section 67 and Schedule 4 of the Housing 2004 an HMO Licence will specify the maximum number of occupants who may occupy the HMO.

It will always include conditions requiring the Licence Holder to:

- Produce a Gas Safety Certificate on an annual basis
- Keep electrical appliances and furniture in a safe condition and supply on demand to the council a declaration to that effect.
- Ensure smoke alarms and any other fire detection is kept in proper working order and supply on demand a declaration as to the condition and positioning of the alarms.
- The occupiers will have a written statement of terms on which they occupy the property.

Further conditions can be attached to the Licence regarding work required within specified periods to meet the Authority's adopted standards for the number of occupants.

A Licence may also include conditions relating to:

- The management of the house, including taking such steps within reason to deal with anti-social behaviour of the occupants and people visiting the property.
- The condition of the house, its contents and the amenity standards other than those under the HHSRS.
- A requirement to carry out specific works or actions within such time as is specified in the Licence.
- A requirement for landlords to attend training courses relating to the Codes of Practice.
- Management Regulations setting out general requirements as to the management of properties.

Where there are hazards in the HMO these will be dealt with by the HHSRS provisions rather than Licensing.

9.1.13 Breaches of Licence Conditions

Under Section 72 the Licence Holder or Manager of an HMO who allows it to be occupied by more persons than the Licence permits, commits an offence and is liable to an unlimited fine. Breaching Licence conditions is also an offence and fines are up to a maximum of £20,000. Prosecution of these offences is without prejudice to the Council's power to revoke the Licence. The 2016 Act introduced civil penalty notices of up to £30,000 which the Council can serve on individuals as an alternative to prosecution.

9.1.14 Duration of Licence

Under Section 68 a HMO licence will normally last for 5 years. The Council can reduce this to an appropriate lesser period (minimum of 12 months):

- to remove any advantage over those licence holders who applied at the appropriate time, or
- where the property has not been satisfactorily managed, or
- where we are concerned the proposed management arrangements may not be satisfactory and want to see evidence that they are before allowing a longer licence period to be granted.

9.1.15 Variation/Revocation/Cessation of Licence

Under Sections 69 and 70 variations may be done by agreement, but the council may not impose higher or different standards than the original Licence except if new amenity standards are prescribed by regulations. Licences may be revoked by agreement and automatically cease after 5 years or within a specific period.

A Licence ceases to be in force on the death of the Licence Holder and for the first three months following their death. The HMO is not licensable within that period, the Council can grant a TEN. After this period a new Licence application must be submitted or the council must make an Interim Management Order.

Other than in those circumstances a licence may be revoked if:

- there has been a significant breach of licence conditions,
- there is a banning order on the licence holder,
- the licence holder and others involved in the management of the house are no longer fit and proper persons,
- the property ceases to be a HMO subject to licensing, or
- the council would not have granted a new licence for the HMO at the time it terminates the licence because of reasons relating to the structure of the HMO which would render the property unsuitable for licensing on similar terms.

On revocation of a licence (unless this is because the HMO no longer requires Licensing) the council must grant another licence or make an Interim Management Order.

On receipt of an application for a licence for a House in Multiple Occupation, Herefordshire Council will carry out all necessary checks as soon as practicable.

9.1.16 Charges for advice

A charge at full cost recovery will be made for advisory inspections to managers or landlords of HMOs which are not subject to mandatory licensing. Advice and guidance to such persons by telephone, email or letter will also be chargeable at full cost recovery should this total over 1 hour in any calendar month.

Landlords of licensed / licensable HMOs will be exempt from advisory charges, as they are already incorporated in the calculation of the HMO license fee.

10.1 Interim or final empty dwelling management orders and compulsory purchase

Subject to prescribed exceptions, Herefordshire Council may seek authority from a Residential Property Tribunal to make Interim or Final Empty Dwelling Management Orders (EDMO).

This course of action will only be pursued:

- if a dwelling has been wholly unoccupied for at least six months or such longer period as may be prescribed.
- if there is no reasonable prospect of it becoming occupied in the near future.
- if an Interim EDMO is made, there is a reasonable prospect that the dwelling will become occupied.
- if Herefordshire Council has made reasonable effort to notify the relevant owner that they are considering making an Order and to ascertain from him (if any) what action he is taking, or is intending to take, to ensure that the dwelling is occupied.
- if any prescribed requirements have been complied with.

The council reserves the right to consider the option of compulsory purchase where it is appropriate to do so.

11.1 Environmental Protection Act 1990

The council will use relevant powers to deal with specific issues covered by the Environmental Protection Act 1990 under Section 79 dealing with statutory nuisances, where a premises is in such a state to be prejudicial to health or a nuisance.

12.1 The Smoke and Carbon Monoxide Alarm (England) Regulations 2015

12.1.1 Introduction

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 introduces the following requirements for all landlords during any period beginning on or after 1st October 2015 when the premises are occupied under the tenancy:

- a) a smoke alarm is equipped on each storey of the premises on which there is a room used wholly or partly as living accommodation;
- b) a carbon monoxide alarm is equipped in any room of the premises which is used wholly or partly as living accommodation and contains a solid fuel burning combustion appliance; and
- c) checks are made by or on behalf of the landlord to ensure that each prescribed alarm is in proper working order on the day the tenancy begins if it is a new tenancy.

12.1.2 Enforcement

Where the local housing authority has reasonable grounds to believe that:

- there are no or insufficient number of smoke alarms or Carbon Monoxide Detectors in the property as required by the regulations; or
- The Smoke Alarms or Carbon Monoxide Detectors were not working at the start of a tenancy or licence;

then the authority shall serve on the landlord in a method prescribed by the regulations, a Remedial Notice detailing the actions the landlord must take to comply with the Regulations.

If after 28 days the landlord has not complied with the Remedial Notice a penalty charge shall be levied through a penalty charge notice.

12.1.3 Principles to be followed in determining the amount of a Penalty Charge

Where a local housing authority is satisfied, on balance of probabilities, that a landlord on whom it has served a remedial notice is in breach of the duty under the Smoke and Carbon Monoxide Alarm (England) Regulations 2015, the authority may require the landlord to pay a penalty charge of such an amount as the authority may determine. The amount of the penalty charge must not exceed £5,000.

The amount of penalty applied shall be based upon a sum of the following elements:

- a) The costs associated with officer time to investigate and enforce the regulations for the specific case, being calculated at an hourly rate including full cost recovery;

- b) The anticipated typical administration costs of the Council associated with enforcement of the penalty, including works in default, £250;
- c) The anticipated typical costs for recover of the penalty, £250;
- d) A reduction if the penalty is paid within 14 days;
- e) A deterrent element (as set out in 12.4 below).

The recovered penalty charge elements a to d above shall be used by the council to offset the service costs. The recovered penalty charge element e above shall be used to provide appropriate financial assistance to improve private sector rented properties to the benefit of vulnerable tenants.

12.1.4 Level of Penalty Charge

The cost recovery element of the penalty shall be as follows:

- a) Officer costs calculated at an hourly full cost recovery rate;
- b) A £250 administration fee; and
- c) A £250 cost recovery fee, unless paid within 14 days.

The deterrent element of the penalty shall be as follows:

- a) A £500 base sum;
- b) For landlords who have been subject to single previous formal action under Housing Act 2004 or other housing legislation, an additional £1000;
- c) For landlords who have been subject to more than one case of formal action under the Housing Act 2004 or other housing legislation, an additional £2500.

12.1.5 Recovery of Penalty Charge

The local housing authority may recover the penalty charge as laid out in the Regulations.

12.1.6 Appeals in relation to a penalty charge notice

The landlord can request in writing, in a period that must not be less than 28 days beginning with the day on which the penalty notice was served, that the local housing authority review the penalty charge notice. The local housing authority must consider any representation and decide whether to confirm, vary or withdraw the penalty charge notice. A landlord who is served with a notice confirming or varying a penalty charge notice may appeal to the First-tier Tribunal against the local housing authority's decision.

13.1 Protection from Eviction Act 1977

13.1.1 Operational

EH Housing provides advice and assistance to private sector tenants in the county who have been unlawfully evicted or are suffering from harassment, intimidation, abuse or

threats to evict from their landlord. This part of the policy sets out what Environmental Health Housing (EHH) may do to prevent unlawful evictions and to support those who are unlawfully evicted. It also in general terms refers to complementary services offered by the Housing Solutions Team (HST) to prevent homelessness.

13.2.1 Scope of the policy

This part of the policy covers unlawful eviction, harassment to evict, threats and abuse to evict and intimidation to evict.

This part of the policy refers to private sector tenants within the county of Herefordshire. This means the property they rent is within the county boundaries of the Herefordshire.

13.1.3 Legislative framework

This part of the policy is based on the discretionary powers available under the Protection from Eviction Act 1977. This policy covers unlawful eviction and harassment as defined in Part 1 of The Protection from Eviction Act 1977.

Part 1 of The Protection from Eviction Act states:

“(2) If any person unlawfully deprives the residential occupier of any premises of his occupation of the premises or any part thereof, or attempts to do so, he shall be guilty of an offence unless he proves that he believed, and had reasonable cause to believe, that the residential occupier had ceased to reside in the premises.

(3) If any person with intent to cause the residential occupier of any premises—

(a) to give up the occupation of the premises or any part thereof; or

(b) to refrain from exercising any right or pursuing any remedy in respect of the premises or part thereof; does acts calculated to interfere with the peace or comfort of the residential occupier or members of his household, or persistently withdraws or withholds services reasonably required for the occupation of the premises as a residence;

he shall be guilty of an offence.”

The council has discretionary powers under the Landlord and Tenant Acts 1985 and 1987, which may be advised upon where appropriate by EHH or HST.

13.1.4 Referrals to Herefordshire Council

Referrals to Herefordshire Council can be made either directly by the individual affected or by a referral from another council department. Referrals may also be accepted from the police, solicitors or an advice centre. Complaints to the council are initially actioned by either EHH or HST in line with the current joint working protocol for dealing with harassment and illegal eviction complaints under the Protection from Eviction Act 1977.

13.1.5 Prevention and advice

Tenants accessing the service will be offered advice on their rights and their security of tenure and the correct procedure for eviction.

Prevention action which may be taken may include:

- Advice on harassment and illegal eviction;
- Advice on legislation cover landlord and tenant relations;
- Advice on civil damages and legal process;
- Advice on housing benefits and benefits available;
- Advice to leaseholders concerning service charge issues and rights to obtain information concerning their service charge accounts.

EHH or HST may, with the permission of the tenant, contact the landlord and make them aware of the correct procedure and their obligations under legislation. This contact could be made in person, over the telephone or in writing.

Where the tenant and landlord agree, HST may offer to be present at meetings, to encourage communication and dialogue between the tenant and the landlord, and make both parties aware of their rights and obligations.

13.1.6 Intervention

EHH or HST may refer the case to other council departments for remedy if this is suitable.

EHH or HST may issue warning for potential cases of harassment in the form of a formal letter, outlining the complaint, and reminding the landlord of their duties and the legislation.

13.1.7 Legal proceedings

Legal proceedings under the Protection from Eviction Act 1977 can be either criminal or civil proceedings. Local authority powers under the Protection from Eviction Act 1977 are discretionary. Legal proceedings, if undertaken, will be the last resort and will not be suggested unless the case passes evidential and public interest tests set out in The Code for Crown Prosecutors and Herefordshire Council's General Enforcement Policy.

The legislation allows for a complainant to take a private prosecution, although in most cases legal aid will not be available.

The council will only consider bringing a prosecution where the evidence is sufficient to indicate the likelihood of a successful prosecution and where it is in the public interest.

An investigation by EHH will take place before prosecution is considered. During the investigation, evidence will be collected about the alleged offence and a case built. All evidence must be able to be used in court and reliable. The Code for Crown Prosecutors and the Councils own overarching enforcement and prosecution policy will be used to ensure these requirements are considered.

It must be in the public interest for the case to be taken to court. The Code for Crown Prosecutors and the Councils own overarching enforcement and prosecution policy will be used to ensure these requirements are considered.

Officers from EHH with the assistance of the council's Legal Services will make an assessment if the evidential test and public interest test have been passed, as outlined in

The Code for Crown Prosecutors and the Councils own overarching enforcement and prosecution policy. The council's Legal Services will, in all cases before proceeding to court, be asked to examine the evidence and public interest tests when reviewing the decision to prosecute.

When a prosecution file has been opened, tenants will be made aware of the outcome of the investigation. This will be done formally in writing.

If a decision is made not to continue to investigate the complaint, the written response will detail why, and may include other options to remedy the situation.

14.0 Other Legislation

Other housing and tenancy related legislation will be used as appropriate in accordance with the approach outlined in this Policy.

15.0 Diversity

The council is committed to equality of access to its services and aims to treat all people with dignity and respect. The Council's Diversity and Equality Policy refers in more detail to this commitment and is available on request and on the Council's website.

16.0 Provision for Particular Interests

Where possible, all documents will be produced in plain language and are also available on request in the relevant community languages, Braille, large type or on audiotape. Provision may also be made for the use of interpreters where appropriate.

17.0 Review

This policy will be reviewed regular and at least every two years.

18.0 Contact

Environmental Health & Trading Standards
Economy, Communities and Corporate Directorate
Herefordshire Council
8 St Owen's Street,
Hereford
HR1 2PJ
Telephone: 01432 261761
E-mail: ethelpline@herefordshire.gov.uk



Appendix E

Code of Conduct for Issuing Fixed Penalty Notices for Child Absenteeism

January 2018

PENALTY NOTICE CODE OF CONDUCT

This code of conduct has been drawn up in line with The Education (Penalty Notice) (England) (Amendment) Regulations 2007.

The purpose of this code of conduct is to ensure that penalty notices are applied consistently and fairly across Herefordshire and that arrangements for their issue and administration are suitable.

Legal Framework and Rationale

If a child of compulsory education age fails to attend regularly at a school at which they are registered or at alternative provision made for them, then the parent may be guilty of an offence under Section 444 of the Education Act 1996.

A parent is guilty of an offence under Section 103 of the Education and Inspections Act 2006 if their child is found in a public place without reasonable justification in the first five days of exclusion.

The definition of a parent under Section 576 of the Education Act 1996 is either:

- The natural parents of a child, whether they are married or not,
- Anyone who has parental responsibility for a child,
- Anyone who has care of a child.

Sanctions currently available under Section 444 of the Education Act 1996 or Section 36 of the Children Act 1989 are supplemented by Penalty Notices to enforce attendance at school where appropriate. Payment of a Penalty Notice discharges the parent's liability for the period in question and they cannot subsequently be prosecuted for the period covered by the Penalty Notice.

The responsibility of the Local Authority

Section 23 of the Anti-Social Behaviour Act 2003 adds two sections to the Education Act 1996 (444A and 444B) which empower designated local authority officers, head teachers (and deputies or assistants authorised by them) or the Chief of Police (or nominated deputy) to issue Penalty Notices in cases of unauthorised absence from school. However, The Education (Penalty Notices) (England) Regulations 2007 give local authorities the lead responsibility for developing this Penalty Notice Code of Conduct under which all partners, named in the Education Act, will operate.

Therefore this code of conduct states that Herefordshire Council, being the local authority, is the only body within Herefordshire able to issue a Penalty Notice for the offences above.

The Education Enforcement Team in the Environmental Health & Trading Standards (EHTS) service

In Herefordshire, Environmental Health & Trading Standards' Education Enforcement Team has responsibility for Penalty Notices on behalf of the Herefordshire Council.

The Team:

- Receives requests to issue Penalty Notices from schools in Herefordshire, West Mercia Police and neighbouring local authorities.
- Issues the Penalty Notices
- Reports annually on the use and outcomes of Fixed Penalty Notices.

Circumstances when a Penalty Notice can be issued

A Penalty Notice is a suitable intervention in circumstances such as:

- Parents' continued failure to engage or respond to the school's attempts to contact them or where parents continually fail to provide an explanation for a pupil's absence in accordance with the school's procedures.
- Holiday during term-time when the school has not authorised the absence and the child has missed at least 10 sessions within a 10 week period.
- Persistent late arrival at school after the registers have closed
- Excluded pupil found in a public place within the first 5 days of any exclusion. (See separate section below)

No more than two Penalty Notices per parent per child will be issued in any rolling twelve-month period.

A penalty notice will be issued to each parent with responsibility (as previously defined) for each child.

Penalty notices will not be issued in respect of an offence when proceeding for that offence arising from the same circumstances are being contemplated or have been commenced by the council.

Other than in specific circumstances, a Penalty Notice will only be issued after a written warning has been sent. A warning letter stating that a Penalty Notice may be issued should be sent when 10 or more sessions of unauthorised absences occur.

Penalty Notices may be issued in cases where a further 10 or more sessions of unauthorised absence accumulate in a 13 school week period (i.e. a school term).

In cases where pupils are not expected to be present for every morning and afternoon session (e.g. attendance at a pupil referral unit), proportionality will be used to determine whether or not a Penalty Notice may be issued. This will be approximately equivalent to 85% attendance (or less) in a 13 school week period where some or all of the absences are unauthorised.

In the specific circumstance of leave of absence in term time where permission has not been sought or permission refused, or the failure of the child to return after an agreed date, schools may request the issue of a Penalty Notice without sending a Penalty Notice warning. It is expected that schools will have responded in writing and made every effort to warn their parents that they may receive a Penalty Notice if the holiday is taken without authorisation. This response constitutes a valid warning to the parent.

Before requesting a Penalty Notice, the police/neighbouring local authorities should contact the Education Enforcement Team to establish whether any action is being undertaken for the period of unauthorised absence.

Penalty notices issued to parents of excluded children

A parent has to ensure that his or her child is not present in a public place during school hours without reasonable justification during the first 5 days of each and every fixed period or permanent exclusion.

The days of exclusion when this duty applies are known as 'specified days of exclusion' and will be detailed in a notice given to the parent under Section 104 of the 2006 Act. The parent is responsible for the child during the specified days upon receipt of the notice.

Section 105 of the Education and Inspections Act 2006 allows for a penalty notice to be issued to a parent committing any offence for failing to ensure that their child is not in a public place on the days specified on the notice given to them. The parent must be notified by the school at the time of the exclusion of their duty and the days to which it relates.

Although head teachers and the police are empowered to issue penalty notices, the offence under Section 103 of the Act allows the excluded pupil's presence in a public place where there is reasonable justification for him/her being there. Attempts should be made to speak to the child or the parents for an explanation. There needs to be an investigation of evidence before a notice is issued. It is not intended that Penalty Notices are issued as an 'on the spot' remedy and, save in exceptional circumstances, schools should, in the first instance, report suspected breaches of Section 103 to Herefordshire Council.

Consideration will be given to the number of times an excluded child can be apprehended, including the parents' action or inaction, as well as the justification put forward and the parents' overall attitude towards their responsibilities.

A Penalty Notice should not generally be issued for a first offence; a parent should receive a warning that a Penalty Notice may be issued if the pupil is found on a second or subsequent occasion.

Procedures for issuing a Penalty Notice

Herefordshire Council will issue Penalty Notices in Herefordshire. This will ensure consistent and equitable delivery across the county. It will also ensure that other strategies or legal processes are not jeopardised and that duplicate notices are not issued. Herefordshire Council will ensure that the issuing of the notices is closely monitored.

Whenever there is a possibility that a case could result in a Penalty Notice or in legal proceedings, schools should ensure that the parent is aware of this and understands the consequences of failing to ensure their child's regular attendance.

Requests to issue Penalty Notices should be submitted to the Education Enforcement Team in Environmental Health & Trading Standards directly.

Schools will:

- Complete the Penalty Notice referral form and supply documents as specified on the referral form by email via the secure email system (anycoms) to Environmental Health & Trading Standards.
- In regard to unauthorised holiday absence, schools will make every effort to forward requests for a Penalty Notice to Herefordshire Council within 15 school days of the unauthorised absence.

Other local authorities and the police will:

- Complete the Penalty Notice referral form and supply documents as specified on the referral form and send by post to:

Education Enforcement Team,
Environmental Health & Trading Standards,
Herefordshire Council,
8 St Owen Street,
Hereford.
HR1 2PJ

The Education Enforcement Team will:

- check that the criteria for issue of a Penalty Notice are met,

- contact the referrer via email regarding the outcome of the request,
- Issue the Penalty notice, making every effort to action requests within 15 school days.

Service of Notices

A notice may be served by:

- Giving it to the recipient, or
- Leaving it at the recipient's usual or last known address, and/or
- Sending it to the recipient at that address by first class post.

Service by post shall be deemed to have been effected, unless the contrary is proven, on the second working day after posting the notice by first class post.

Payment of a Penalty Notice fine

Arrangements for payment are detailed on the Penalty Notice. The Penalties are as follows:

- If paid within 21 days, the penalty is £60.
- If paid after 21 days, but within 28 days, the penalty is £120.

Herefordshire Council will not accept payment after 28 days and will, proceed to prosecution if the fine is unpaid, unless there are grounds not to do so.

Payment is to be made to Herefordshire Council. Revenue generated from the penalty notices will be used to cover the costs of issuing the notices, the enforcement necessary and the cost of prosecuting recipients who do not pay.

Withdrawal of a Penalty Notice

There is no statutory right of appeal against the issuing of a penalty notice. Penalty notices may only be withdrawn for the following reasons:

- Where it is determined that the notice should not have been issued;
- Where notice should not have been issued to the person named as the recipient; or
- Where it appears to the council that the notice contains material errors.

Where a Penalty Notice has been withdrawn, a notice of the withdrawal shall be given to the recipient and any amount paid will be refunded. No legal proceedings shall be continued or instigated against the recipient for the offence for which the withdrawn notice was issued.

Legal Proceedings

Unlike other Penalty Notice schemes, legal proceedings would not be for non-payment of the Penalty Notice. When legal proceedings are taken under Section 444 of the Education Act 1996 or Section 103 of the Education and Inspections Act 2006, Herefordshire Council's enforcement and prosecution policy will be followed.

If the Penalty Notice is not paid in full before the expiry of the period for paying it, Herefordshire Council may instigate legal proceedings or withdraw the Penalty Notice, in accordance with Herefordshire Council's enforcement and prosecution policy. Part payment cannot be accepted.

The legal proceedings will not be instigated for the particular offence for which the Penalty Notice was issued until after the deadline for payment has passed (28 days) and cannot be convicted of that offence if they pay the penalty in accordance with the terms of the Penalty Notice.

If a penalty is not paid, Herefordshire Council will use the fact that a Penalty Notice was issued and unpaid as evidence in subsequent legal proceedings. The 'penalty notice request forms', certified by head teachers as an accurate record of the unauthorised absence, may be used as evidence to support legal proceeding.

Monitoring and Review

The Education Enforcement Team maintains records of Penalty Notices including:

- the number of requests to issue a Penalty Notice
- the number of Penalty Notices issued
- the number of penalties paid,
- the number of requests for withdrawals, notices withdrawn and the grounds of the withdrawal
- the number and outcome of cases taken to court

This code of conduct will be reviewed along with the council's Enforcement and Prosecution Policy and will be amended accordingly. Penalty Notice fines may also vary to those published in this code of conduct, depending on any future update by statute, guidance or order.

Appendix F

ENVIRONMENTAL ENFORCEMENT

FIXED PENALTY NOTICES OPERATIONAL POLICY

January 2018

ENVIRONMENTAL ENFORCEMENT - FIXED PENALTY NOTICES OPERATIONAL POLICY

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1. The purpose of this policy is to:

- 1.1 Establish standardised fixed penalty procedures to be followed by all those with powers to issue fixed penalty notices for environmental offences.

2. Who does this policy apply to?

- 2.1 Everyone in the council involved in the enforcement, prosecution and administration of such fixed penalty notices.

3. Introduction

- 3.1 The Clean Neighbourhoods and Environment Act 2005 extended and amended the powers available to local authorities to tackle environmental crime. In particular the Act extended the use of fixed penalty notices (FPNs) across a range of environmental offences with an increasing emphasis on their use as a key means of tackling such offences. FPNs provide a quick, visible and effective way of dealing with low-level straightforward environmental crimes, and an alternative to prosecution.

- 3.2 Also the Anti-social Behaviour Crime and Policing Act 2014 allows local authorities to tackle anti-social behaviour by the introduction of public spaces protections orders. In particular, all dog control orders are now made under this Act.

- 3.3 A fixed penalty is not a fine. Payment of the penalty by the recipient discharges their liability to conviction for the offence for which the FPN was issued. It does not constitute an admission of guilt, but removes the possibility of the creation of a record of criminal conviction.

- 3.4 It is very important that there is a framework in place to ensure that offenders will be prosecuted if they choose not to pay the fine. This gives a powerful message to the community that such crimes will not be tolerated. If there is a reluctance to prosecute, this will give out a negative message and will undermine the credibility of FPNs, and word will soon spread that the payment of FPNs are optional.

- 3.5 FPNs should not be used in isolation; they are just one method of enforcement which range from words of advice through to prosecution. Their use should be supported by education and campaigning strategies, and they should be targeted appropriately. Targeting will achieve the best results in that it is more likely to catch offenders, create an improvement and attract public support.

- 3.6 The purpose of this guidance is to establish standardised fixed penalty procedures to be followed by all those with the power to issue fixed penalties. It has been prepared in line with guidance from DEFRA on the use of FPNs and complements the existing Enforcement Concordat and the council's single overarching enforcement and prosecution policy and its supplementary policies.

4. Working practices

- 4.1 Only officers who have been authorised in writing can issue FPNs on behalf of the authority. Such authorised officers must carry with them at all times the relevant authorisation/identification.
- 4.2 Whilst it is not a strict requirement, and whilst there may be occasions when 'covert' enforcement is appropriate, it is considered good practice that the issue of a FPN is by an enforcement officer in uniform. This tends to legitimise what the enforcement officer is doing and visibly demonstrates to the community that the authority is tackling inappropriate behaviour. The reassurance element of this should not be under-estimated.
- 4.3 Whether in uniform or not an enforcement officer should always identify themselves as such and be prepared to show their identification card and authorisation.

5. Relevant offences

- 5.1 At present there are twelve different offences which can be dealt with by authorised officers. They are as follows:
- Nuisance parking
 - Abandoning a vehicle
 - Litter
 - Fly tipping
 - Street Litter Control Notices and Litter Clearing Notices
 - Unauthorised distribution of literature on designated land
 - Failure to produce a Waste Transfer Note
 - Failure to produce waste carrier registration documents
 - Waste receptacles
 - Graffiti and fly posting
 - Noise from premises (domestic and licensed)
 - Failure to nominate key-holder (within an alarm notification area)
 - Public Spaces Protection Orders

5.2 A short description of these offences and the relevant legislation can be found at Appendix 1.

6. Grounds for issuing FPNs

6.1 It is not the intention of this policy to deal formally with each and every situation where an offence has been witnessed. Neither is it the intention of the policy to be prescriptive as to when a FPN should be issued. Enforcement officers quite properly have discretion and must consider each set of circumstances when reaching a decision as to whether the issue of a FPN is appropriate.

6.2 The authority does not have a 'zero tolerance' approach, but neither will it be appropriate to simply advise all those who commit offences. Instead the authority relies upon the professional judgement of its enforcement officers to operate within the broad guidelines of this policy and to exercise a balance between education and enforcement.

6.3 An FPN may only be issued where an officer has reason to believe a person has committed a penalty offence and there is sufficient and appropriate evidence to a criminal standard of proof to support a prosecution in court, should the penalty notice go unpaid.

6.4 FPNs are designed to deal with low-level offending only. When the nature or extent of the offence is so serious that the issue of a FPN would bring the system into disrepute, then prosecution should be considered instead.

6.5 Normally offences resulting in an FPN will be witnessed directly by the officer, albeit that an officer may consider it appropriate to issue a FPN when they have not directly witnessed the offence but have reliable witness testimony.

6.6 Any interview and questioning must be consistent with the practice and procedures established by Code C of the Police and Criminal Evidence Act 1984.

7. Second offences

7.1 There will be occasions when those who have received an FPN fail to modify their behaviour and commit a further offence.

7.2 As one of the purposes of an FPN is to change offending behaviour, generally an FPN should be regarded as a 'once only offer'. In cases where an offender commits the same offence on a second occasion it is reasonable to argue that the original FPN has failed to have the desired affect and that prosecution is the most appropriate course of action.

7.3 As it can be difficult to access the required information, if any officer has reason to believe that an offender has been dealt with by way of an FPN on a previous occasion, the appropriate course of action may be to issue a Notice of Environmental Crime and thus allow the required checks to be carried out prior to the enforcement decision.

7.4 Notwithstanding the above it will be acceptable to issue an FPN to the same person on more than one occasion if the offences are different.

8. When an FPN is not appropriate

8.1 An FPN should only be issued where the alleged offender is compliant and able to understand fully what is going on and where there is sufficient evidence as to his identity and address.

8.2 Where a person is uncooperative, threatening, abusive or violent consideration should be given to alternative methods of disposal, (e.g. prosecution and/or police involvement). If an offender gives false details, or they are suspected to be false, or refuses to give them and subsequently their identity is established, the offence should normally be pursued by prosecution, where practicable, rather than with an FPN.

8.3 Additionally an FPN will *not be* appropriate:

- where there is insufficient evidence to support prosecution for the original offence in the magistrates' court should the FPN go unpaid;
- where the offence that has been committed is considered to be too 'serious' in scale or effect to merit an FPN;
- where the offence that has been committed is so small or trivial in its effect that action might not be in the public interest. It is often difficult for the enforcement officer to make this decision 'on the ground' at the time of the offence. The Notice of Environmental Crime can be useful in such circumstances. Additionally the 'Appeals and Payment Procedure (Section 12) provides an opportunity for the relevant service manager to address this point;
- where the suspect appears to be unable to understand what is being offered to them or there is any doubt about their ability to understand English;
- where the suspect's behaviour suggests they have learning disabilities or a mental disorder;
- where the suspect is drunk or under the influence of drugs;
- where the suspect is a non-resident foreign national;
- where there is no satisfactory address for enforcement purposes, for example where the suspect is homeless.

9. FPNs and Young People

9.1 The issuing of FPNs to young people below 18 years is not straightforward. In law, a local authority FPN can be issued to anyone over the age of 10. Parents and guardians are not responsible in law for paying FPNs issued to young offenders. However, a court can order the parent/guardian to pay any fine it may impose.

- 9.2 In dealing with an alleged young offender the name, address, age and date of birth of the person should be obtained, together with the name and address of his or her parents or legal guardian. No interview should be undertaken of any young person under the age of 17 without the presence of a 'responsible' adult.
- 9.3 An FPN must not be issued to anyone who is under 10 years of age.
- 9.4 **10-15 year olds** - Where an offence is straightforward, for example a littering offence, and a formal interview is not required, an FPN may be issued, albeit that an FPN will not be issued 'on the spot' to an alleged offender within this 10 to 15 year old age group. Instead, an appropriate course of action will be decided following consultation with the Youth Offending Service. In such circumstances it is extremely unlikely that an FPN would be issued for a first offence, as a warning would be the most likely outcome. In all instances, a young person's parents or legal guardian should be informed at the earliest opportunity of the circumstances and the action/consultation that is being taken. The council will take every effort to avoid the service of an FPN on a person in this 10 to 15 year old age band, and will only do so in extreme cases of persistent offending and where it is evident that there is little or no remorse.
- 9.5 **16-17 year olds** - FPNs can be issued to this age group using the same procedure as for adults. The Youth Offending Service will be notified in writing of the event. They will also be consulted if the youth has committed a second FPN offence prior to the consideration of prosecution.
- 9.6 There should be a multi-faceted approach to the problem of young offenders. An FPN is just one method of enforcement and consideration will be given to other areas such as education work in schools and initiatives such as litter picking.

10. Method of Issue

- 10.1 FPNs may be issued on the spot by enforcement officers and indeed this is generally regarded as the preferred and the most appropriate method of issue. There may, however, be occasions when the officer considers that this is not the most appropriate method, and on such occasions it is permissible to issue a Notice of Environmental Crime. This notice serves to inform an offender that they may receive an FPN by post. Such an approach:
- allows evidence to be checked before the notice is issued;
 - allows names and addresses to fully checked;
 - allows an opportunity to check for previous offences;
 - is less confrontational for the enforcement officer.

11. Evidence

- 11.1 An FPN should not be issued unless the issuing officer believes that there is sufficient evidence to support a successful prosecution.

- 11.2 As such, the FPN and accompanying statement should include all of the points required to prove the offence, should it end in the magistrates' court.
- 11.3 Any supporting evidence, not required at the time of submitting the officer's copy of the FPN, should be safely and securely stored.
- 11.4 Where the officer has issued a Notice of Environmental Crime they should complete their witness statement in the same way as if they had issued an FPN. Should a decision subsequently be made to issue an FPN, the copy FPN can then simply be linked to the Notice of Environmental Crime for evidential purposes.
- 11.5 Whilst there is a degree of debate as to when, or if, an offender needs to be cautioned in certain circumstances, enforcement officers should be mindful that if they wish to question an alleged offender over and above asking for name, address, date of birth and in the case of dog fouling, to confirm if a dog is with a particular person, and they may want to use any of the answers in any subsequent prosecution, then they must caution the person.
- 11.6 Other than in the most straightforward of offences, therefore, where the testimony of an enforcement officer who has witnessed the offence should be sufficient to support a prosecution, or when the alleged offender is under the age of 17 and any 'interview' should be in the presence of an appropriate (responsible) adult, it should be regarded as good practice to caution.
- 11.7 Obtaining the right identity of an alleged offender is key to the process of issuing a FPN. Under Section 7 of the Clean Neighbourhoods and Environment Act 2005 an authorised officer proposing to give a person an FPN may require the person to give him his name and address. A person commits an offence if he fails to give his name and address when required to do so, or he gives a false or inaccurate name or address.
- 11.8 Whilst this is a useful power, in practice it may be difficult for an enforcement officer to know when false details have been given, albeit that experience will usually alert an officer to this. It is good practice therefore to seek from an alleged offender some means of identification that supports the details they have given, albeit there is no power to require that they produce this, and to only offer an FPN when as confident as is reasonably practicable that correct details have been provided.
- 11.9 If there is any doubt over someone's identity they should not be offered an FPN at the time. Rather, the enforcement officer should see if it is possible to verify the individual's identity. If, following further enquiries, it turns out that the alleged offender was providing the correct details then an FPN can be issued retrospectively. If it transpires that false details were provided and the enforcement officer is able to establish the correct identity then consideration will be given to prosecute the alleged offender for the original offence in addition to the offence of refusing to provide name and/or address or failing to provide accurate name and address details.
- 11.10 It is accepted that this approach means that some offences may go unpunished, but such a position is important if the integrity of the FPN process is not to be compromised.

12. Appeals and Payment Procedure

- 12.1 Once an FPN has been issued, the recipient may decide to write in, email or telephone to plead mitigation or contest the FPN. The person should be advised that there is no obligation to pay the fine if he/she wishes to contest it. However, as there is no formal appeals procedure the only appropriate place to challenge an FPN is the magistrates' court.
- 12.2 Notwithstanding the above and the fact that there is no appeals procedure, a service manager whose staff are authorised to issue FPNs may cancel any FPN following a review of the circumstances. Where an FPN is cancelled the service manager will write to the recipient of the FPN explaining why the notice is cancelled, and a copy of the letter and notice will be retained for audit purposes.
- 12.3 Prosecuting alleged offenders in court is expensive and as such high payment rates for FPNs is central to the success of their use. A paid FPN is always a better outcome than one that goes unpaid with the original offence then having to be prosecuted at court. Legislation allows those who have been issued with an FPN 14 days to pay. However, this does not mean that late payment cannot be accepted; indeed in certain circumstances an alternative payment option can be advantageous if this works to secure payment and prevent a prosecution.
- 12.4 The general principle remains that an FPN must be paid within 14 days. However, the relevant service manager does have the authority to offer an alternative payment option. Any request for an alternative way of paying must be carefully considered on a case by case basis and the service manager will offer it only where satisfied that there are genuine reasons, and not routinely or as a matter of course.
- 12.5 Genuine reasons are likely to be:
- when it is a young person (aged under 18) who is not in employment, for example a student;
 - when someone is on benefits;
 - where there is otherwise a proven case of hardship.
- 12.6 An alternative payment option may be:
- payment by instalments; or
 - deferred payment.
- 12.7 Where an alternative payment option is offered, the detail of it will be fully documented, and if it is subsequently disregarded, the original offence will be prosecuted in court.
- 12.8 Whilst there is no obligation to send a reminder to the recipient of an FPN, the reality is that on occasion a notice may not be paid within the 14 days.

Where this is the case, prior to initiating court proceedings for the original offence, a letter will be sent to the alleged offender reminding them of the offence alleged and the action required of them to avoid a possible prosecution. This reminder will effectively give an alleged offender a further 7 days in which to pay the FPN.

13. Pursuing Offences in Court

- 13.1 The conclusion of any FPN that goes unpaid after the 14 day payment window has closed and after a reminder letter has been sent will be prosecution for the original offence in the magistrates' court, unless there is good reason not to.

14. Training and Management Systems

- 14.1 All staff who are responsible for the issue and progressing of FPNs will be fully trained in the appropriate procedures to follow. A list will be maintained of all individuals who are authorised to issue FPNs.
- 14.2 A system will monitor all FPNs from issue through to payment or prosecution. This system will maintain up to date records of enforcement activity, i.e. numbers of notices issued, how much money has been generated in receipts and the number of court prosecutions for non-payment. This information is legally required by DEFRA on a yearly basis.

15. Compliance

- 15.1 All FPNs issued will be monitored by the respective service manager; this will ensure that FPNs are being issued lawfully and that this policy is being followed.
- 15.2 Failure to follow this policy will have an impact in a number of areas. Failure to pursue unpaid notices through the courts will discredit the use of FPNs and will lead to declining payment rates. If the guidelines are not followed this may result in unsuccessful prosecutions through the courts, and may also result in the council acting unlawfully.

Appendix 1

Fixed Penalty Notices

A Guide for Herefordshire Council

Disclaimer

The Cleaner Neighbourhoods and Environment Act 2005 extended and amended powers available to local authorities to tackle environmental crime. In particular, environmental crimes. This document serves as a guide to, and synopsis of, the law relating to the relevant crimes. It is not comprehensive and it may be misleading if relied upon as a complete explanation of the legal issues involved. If any matter is to be acted upon, the full texts of all the Acts and relevant statutory instruments must be consulted.

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Nuisance Parking - Section 3 (1) and 4 (1) Clean Neighbourhoods and Environment Act 2005

Section 3 Exposing vehicles for sale on a road

A person is guilty of the offence if at any time if –

a) he leaves two or more motor vehicles within 500 metres of each other on a road or roads where they are exposed or advertised for sale.

b) he causes two or more vehicles to be so left.

This offence is aimed at businesses and garages and therefore would not apply to an individual selling a vehicle privately and not as part of his business.

Section 4 Repairing vehicles on a road

A person is guilty of an offence who carries out restricted works on a motor vehicle on a road.

This offence is aimed at people who repair vehicles on the street and cause a nuisance, for example by taking up valuable car parking space or by allowing oil to leak onto the road.

There are two exceptions. Firstly where the person proves he was not repairing the vehicle in the course of a business. This is only available where the works did not give “reasonable cause for annoyance to persons in the vicinity”. Therefore a private individual could commit the offence if the works gave cause for annoyance.

The second exception is where the repairs arose from a breakdown or accident and repairs were carried out promptly.

Fixed penalty fine

Set at £100, can be discounted to £60 if paid within 10 days.

Power to require name and address

Section 7 (1) gives an authorised officer of a local authority the power to **require** name and address of the offender if the officer proposes to issue a fixed penalty notice. **Section 7 (2)** makes it an offence to fail to provide the information asked for or to give inaccurate information.

Abandoning a Vehicle – Refuse Disposal (Amenity) Act 1978 – section 2

It is an offence to abandon a motor vehicle or anything that has formed part of a motor vehicle on any land in the open air or on any other land forming part of a highway.

Fixed penalty fine

Set at £200, can be discounted to £120 if paid within 10 days.

Power to require name and address

Section 2B gives an authorised officer of the local authority the power to **require** the name and address of the person he proposes to issue a fixed penalty notice. It is an offence to give false or inaccurate details.

Definitions

A road is as defined in section 142 of the Road Traffic Regulation Act 1984 – any length of highway or other road to which the public has access. The main feature of a road is that it is a means of getting from A to B; it could include roads through estates that are owned by organisations such as Housing Associations or by the actual residents. It would not normally include a car park. It includes both the carriageway and footpath.

A motor vehicle has the same meaning as in the Refuse Disposal (Amenity) Act 1978, “a mechanically propelled vehicle intended or adapted for use on roads, whether or not it is in a fit state for such use, and includes any trailer intended or adapted for use as an attachment to such a vehicle, any chassis or body, with or without wheels, appearing to have formed part of the vehicle or trailer and anything attached to such vehicle or trailer”.

Restricted works means repairing, maintaining, servicing, improvement or dismantling of a motor vehicle or any part or accessory of a vehicle, or installing, replacing or renewing any such part or accessory.

Litter – Environmental Protection Act 1990 – section 87(1)

It is an offence to throw down, drop or otherwise deposit, and then leave litter. This applies to all places that are open to the air, including private land and land covered by water.

There is no definition of litter, it is therefore very wide. Subsection 98(5A) of the 1990 Act now makes it clear that the term specifically includes smoking related litter such as cigarette ends and cigars, and discarded chewing gum and bubble gum. There is a degree of judgement when it comes to larger items of discarded material - as a guideline a single plastic sack of rubbish can be dealt with as fly-tipping.

A covered place is ‘open to the air’ if it is open to the air on at least one side (e.g. a bus shelter). The legislation only applies then, however, if the public have access to the covered place, with or without payment. The question of public access is no longer relevant for any other place in the open air.

Fixed Penalty Fine

Can be set locally at between £50 and £80, default £75, can be discounted to £50 if paid within 10 days.

Power to require name and address

Section 88 (8A-8C) gives an authorised officer of the local authority the power to **require** the name and address of the person of whom he proposes to give a fixed penalty notice. It is an offence to provide these details or give false or inaccurate details.

Fly tipping – Environmental Protection Act 1990 – section 33(1)

It is an offence to fly tip waste where no waste management licence is in force. This applies to all places that are open to the air, including private land and land covered by water.

A covered place is 'open to the air' if it is open to the air on at least one side (e.g. a bus shelter). The legislation only applies then, however, if the public have access to the covered place, with or without payment. The question of public access is no longer relevant for any other place in the open air.

Fixed Penalty Fine

Can be set locally at between £150 and £400, default £200, can be discounted to £120 if paid within 10 days.

Power to require name and address

Section 88 (8A-8C) gives an authorised officer of the local authority the power to **require** the name and address of the person of whom he proposes to give a fixed penalty notice. It is an offence to provide these details or give false or inaccurate details.

Street Litter Control Notices and Litter Clearing Notices – Environmental Protection Act 1990 - section 94(8)

A local authority can require the owners of certain types of commercial premises to prevent or remove accumulations of litter to the detriment of the amenity of the area. Where a litter problem can clearly be traced to certain types of business, e.g. takeaways or mobile vendors, a local authority can issue a Street Litter Control Notice. This requires the occupier or owner of a business or retail premises to clear up litter and or implement measures to prevent land becoming defaced again.

It is an offence to fail to comply with the Street Litter Control Notice.

The Cleaner Neighbourhoods and Environment Act 2005 has amended sections 93 and 94 of the 1990 Act to make it an immediate offence not to comply with the specifications of the notice. There is no requirement on the authority to first seek an order from the magistrate's court. A fixed penalty notice may be issued for the failure to comply.

Fixed Penalty Fine

Can be set locally between £75 and £110, default £75. Can be discounted to £60 if paid within 10 days.

Unauthorised Distribution of Literature on Designated Land – Environmental Protection Act 1990 – Schedule 3A (1), para 1(1) & (2)

A local authority can designate areas by Order, where it is an offence to distribute free printed materials, such as leaflets or flyers.

It is an offence to distribute such leaflets or flyers, or to ask another person to do so, without the consent of the authority, on any land that the authority has designated under this Schedule.

Authorised officers have the power to seize any materials that are being distributed in contravention of the Order, and can issue a fixed penalty notice.

Fixed Penalty Fine

This can be set locally between £50 and £80, default £75. Can be discounted to £50 if paid within 10 days.

Power to require name and address

Schedule 3A, para 7(7)-(9) gives an authorised officer of the local authority the power to **require** the name and address of the person of whom he proposes to give a fixed penalty notice. It is an offence not to provide these details or give false or inaccurate details.

Waste Offences

Section 34 of the Act sets out the waste duty of care, which applies to anyone who is the holder of controlled waste. Subject to certain exemptions, this includes everyone who produces waste (in the course of their business for example); everyone who transports waste; everyone who stores waste; and everyone who recycles, incinerates, landfills or otherwise recovers or disposes of waste.

The duty of care for waste is the duty to take all such measures as are reasonable in the circumstances to:

- prevent the waste from escaping (i.e. to ensure it is properly contained);
- ensure that, when the waste is transferred, it is only transferred to an authorised person (e.g. a council waste collector; a registered waste carrier; a holder of a waste management licence); and
- ensure that, when the waste is transferred, a written description of the waste goes with it.

It is also necessary to complete a Waste Transfer Note when waste is transferred from one person to another. This must contain certain information, including about the nature and quantity of the waste; the address and status of the transferring and receiving parties; and the time and place of the transfer. The written description of the waste and the transfer note may be contained in the same document. Both parties must keep their copy of these.

The breach of any of these duty of care requirements constitutes a criminal offence; there are two specific offences that local authorities can deal with by way of fixed penalty notice as follows:

Failure to Produce a Waste Transfer Note – Environmental Protection Act 1990 – section 34A (2)

It is an offence to fail to produce a waste transfer note to a local authority officer.

Failure to Produce Waste Carrier Registration Documents – Control of Pollution (Amendment) Act 1989 – section 5B

Section 5 gives powers to police, the Environment Agency and waste collection authorities to stop, search and seize any vehicle believed to be used for the transportation of controlled waste without being registered. Only a constable in uniform has the power to stop a vehicle on a road. Local authority officers have the power to issue a fixed penalty notice for failing to produce authority for transporting controlled waste. It is an offence to fail to assist or to otherwise obstruct an officer, including giving false or incorrect information.

Fixed Penalty Fine for both offences

This is set at £300, it can be reduced to £180 if paid within 10 days.

Definitions

Controlled waste encompasses household, industrial and commercial waste.

Household waste is that which arises from dwellings of various types including houses, caravans, houseboats, campsites, prisons and wastes from schools, colleges and universities.

Commercial waste comes from premises used wholly or mainly for trade, business, sport, recreation or entertainment; excludes household and industrial waste.

Industrial waste is waste from a factory or industrial process; it excludes wastes from mines and quarries and agricultural wastes.

Exempt waste types

- Waste producers carrying **only** their own waste, except building or demolition waste.

- Persons transporting waste which comprises **only** animal by-products.
- Persons transporting **only** mines and quarries waste or **only** agricultural waste.

This exemption from registration applies if these are the **only** types of waste being transported. If there is a mix of these types of waste with other waste, the transporter will need to be a registered carrier.

Waste Receptacles – Environmental Protection Act 1990- section 46 and 47

Sections 46 and 47 deal with receptacles for household, commercial and industrial waste. Local authorities can serve notice on owners or occupiers specifying certain conditions, e.g. that they must put their waste in a certain place to facilitate waste collection. A fixed penalty can be issued to people who fail to comply with this notice.

Fixed Penalty Fines

This can be set locally between £75 and £110, default £100. Can be discounted to £60 if paid within 10 days.

Public Spaces Protection Orders

These orders can be created by the council under Section 59 of the Anti-social Behaviour Crime and Policing Act 2014, in order to tackle any antisocial behaviour in an area.

This can include issues such as dog control, alcohol control. See specific Public Spaces Protection Order for detail.

Fixed Penalty Fine

This set amount is £100, but an order can specify a discount if paid within 10 days.

Dogs (Fouling of Land) Act 1996

- (1) If a dog defecates at any time on designated land and a person who is in charge of the dog at that time fails to remove the faeces from the land forthwith, that person shall be guilty of an offence unless—
- (a) he has a reasonable excuse for failing to do so; or
 - (b) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.

Fixed Penalty Fine

Set at £50.

Graffiti and Fly posting – Anti-Social Behaviour Act 2003 – section 43

The Act gives local authorities the power to deal with graffiti and fly-posting offences. These powers should only be used for minor offences of graffiti and fly posting that would not be in the public interest to pursue through the courts. Repeated ‘tagging’ of property or multiple incidents of illegal displays of promotional posters should be prosecuted under the appropriate legislation, i.e. the Criminal Damage Act 1971 or the Town and Country Planning Act 1990.

Graffiti

A person is guilty of graffiti if they deface with graffiti any property that is not their own or that do not have permission of the owner to deface. The offence is made out in the Criminal Damage Act 1971, section 1(1) as intentionally or recklessly damaging any property belonging to another. This offence is restricted for the purposes of issues fixed penalty notices under the Anti-Social Behaviour Act 2003, to an offence “which involves only the painting or writing on, or the soiling, marking or other defacing of, any property by whatever means”.

‘Etching’ which is the etching of glass or Perspex with a sharp implement should not be dealt with by way of fixed penalty as the affected surface has to be removed and replaced, it is therefore not minor.

Fly-posting

Fly-posting is basically the display of advertising material on buildings or street furniture without the consent of the owner and without the required planning consent, both of which are required. Offences can range from small stickers to large posters advertising music events.

A fixed penalty notice should only be given for the most minor of offences, for example where the cost of removal is low or where the advert has not been posted in many locations.

Fixed penalty fine for graffiti and fly-posting

This can be set locally between £50 and £80, default £75. Can be discounted to £50 paid within 10 days.

Power to require name and address

Section 43B gives an authorised officer of the local authority the power to **require** the name and address of the person of whom he proposes to give a fixed penalty notice. It is an offence to fail to provide these details or give false or inaccurate details.

Noise from Premises (domestic and licensed) – Noise Act 1996 – section 4

Night-time noise offence

This is based on an objective measured sound level ('the permitted level'). It applies where the noise is:

- emitted from a premises (dwelling and licensed),
- during night hours (between 2300hrs and 0700hrs),
- measured from within the complainant's dwelling (where they are present) to be in excess of the permitted level.

If the officer is satisfied, either by judgement or measurement that the noise complained of exceeds or may exceed the permitted level during night hours, then a warning notice may be served.

An offence is then committed where a Warning Notice has been served and noise is subsequently emitted within the period specified in the Notice, and exceeds the permitted level as determined using measurements taken within the complainant's dwelling. This offence may then be dealt with by way of fixed penalty notice.

Fixed Penalty Fine

For **dwelling**s this can be set locally at between £75 and £110, default £100, discounted to £50 if paid within 10 days. For **licensed premises** the amount is set at £500 with no opportunity to discount for early payment.

Permitted level of noise

The permitted level of noise which may be emitted during night hours from an offending premises shall be;

- (a) where the underlying level of noise does not exceed 24dB, 34dB;
- (b) where the underlying noise exceeds 24dB, 10dB in excess of that level of underlying noise.

Failure to nominate key-holder (within an alarm notification area) – Clean Neighbourhoods and Environment Act 2005 – Sections 73 & 74

These are powers available to local authorities with designated 'alarm notification areas'. Not applicable at this time to Herefordshire.

The financial amounts referenced in Appendix 1 of this policy are subject to statutory revisions and, as such, may be revised by the government from time to time. The actual specified amounts may therefore vary from this document, which were correct at the time of publishing.

Appendix 2

Levels of Fixed Penalty Fine

Section and Legislation	Description of offence	Amount	Discounted rate (if paid within 10 days)
S.3 (1) and 4(1) Clean Neighbourhoods and Environment Act 2005	Nuisance Parking	Set at £100	£60
S.2 Refuse Disposal (Amenity) Act 1978	Abandoning a Vehicle	Set at £200	£120
S.87(1) Environmental Protection Act 1990	Littering	£80 (between £50 and £80) *	£50
S.33 Environmental Protection Act 1990	Fly Tipping	£400 (between £150 and £400)	£120 minimum
Schedule 3A(1), para 1(1) & 2	Unauthorised Distribution of Literature on Designated Land	£80 (between £50 and £80)	£50
S.34A(2) Environmental Protection Act 1990	Failure to Produce a Waste Transfer Note	Set at £300	£180
S.5B Control of Pollution (Amendment) Act 1989	Failure to Produce Waste Carrier Registration Documents	Set at £300	£180
S.46 and S.47 Environmental Protection Act 1990	Offences in Relation to Waste Receptacles	£100 (between £75 and £110)	£60
Anti-social behaviour crime and Policing act 2014	Public Spaces Protection Orders	£100	£50 (if stated in order)
S.43 Anti-Social Behaviour Act 2003	Graffiti and Fly Posting	£80 (between £50 and £80)	£50
S.4 Noise Act 1996	Noise from premises (domestic)	£80 (between £75 and £110)	£50
S.4 Noise Act 1996	Noise from Premises (licensed)	Set at £500	N/A
S.73 and S.74 Clean Neighbourhoods and Environment Act 2005	Failure to nominate key-holder in alarm notification area.	£80 (between £50 and £80)	£50

*The bracketed figures below the amount of fine are the ranges within which local authorities have the power to set a figure. Where no such ranges exist, the fine is a set figure by law.

The financial amounts referenced in Appendix 2 of this policy are subject to statutory revisions and, as such, may be revised by the government from time to time. The actual specified amounts may therefore vary from this document, which were correct at the time of publishing.