

## Appendix A: Priority Flood Repair Works Capital Programme: Realignment

### Purpose

To approve in year adjustments to the capital programme to allow the re-alignment of capital spend to projects that require the allocation of budget. Provision of funding is required to enable the following:

- Given that:
  - the estimated cost for the repair of the Fownhope Landslip was £1.565m; and
  - the sum certified as due in accordance with the Public Realm Services Contract (PRSC) for this completed scheme is £0.508m,

approval is sought to reduce the budget for this scheme to £0.51m.

- Given that:
  - the estimated cost for the repair of the Fownhope Retaining Wall Collapse was £1m; and
  - the sum certified as due in accordance with the PRSC for this completed scheme is £1.066m; and
  - c£36k of other expenditure has been necessarily incurred to gain access to land and provide revised public transport arrangements during the closure of the B4224 at Fownhope.

approval is sought to increase the budget for this scheme to £1.15m.

- Given that:
  - the sum certified as due for the Fownhope Retaining Wall Collapse includes c£70k that have yet to be paid to BBLP and interest will be due on this late payment. The budget increase for sought for this scheme included an allowance for the interest due.
  - It should be noted that construction contracts are subject to the requirements set by the Housing Grants, Construction and Regeneration Act 1996. In the event that the contractor had to perform additional work to complete the construction, and the reason for that additional works is a matter which is identified as being at the client's risk, then the contractor is due to be paid that additional sum as part of the sums due to them. This regardless of whether the client has the budget to cover this assigned to the scheme. Consequently, the sum due must be certified under the contract for payment.
  - In contrast, council officers can only make payments in accordance with the authority delegated to them. Meaning that whilst the aforementioned sums are certified as due, officers do not have the authority to make the payment that is due, unless the budget is realigned as described.

as a consequence of this realignment the sums due for works done can now be paid in accordance with the PRSC and the requirements for payment in construction contracts

as established by Section 111 of the Housing Grants, Construction and Regeneration Act 1996.

- Given that the:
  - report to Council on 4 August 2020 set the budget for this programme of Priority Flood Repair Works at £4.027m;
  - the total of the sum certified plus other expenditure incurred for two completed schemes is £0.905m below the total of the estimates for the two completed Fownhope repair schemes; and
  - the service does not anticipate any substantial further expense in respect to works over the sums certified to date for both the Fownhope Landslip and the Fownhope Retaining Wall Collapse; and
  - a review of estimates for the necessary work that remain, which will be best completed following receipt of tenders and the detailed contemporary quantification of works on a site by site basis, may identify the need for an adjustment in the budgets required for the remaining elements of this programme.

Approval is sought to reallocated this £0.905m and provide a budget of £2.367m for the remaining schemes in this programme of Priority Flood Repair Works.

A delegation is sought to enable the Chief Finance Officer (as S.151 officer) to approve the in year amendments to the capital budget to allow for payments to be made in respect to the projects identified and those that form the remainder of the Priority Flood Repair Works Capital Programme.

### Alternative options

1. Not to approve the proposed amendments. This is not recommended as:
  - a. This would mean that sums certified as due for works that were required to complete the Fownhope repairs could not be paid. The council would be in breach of contract and have acted contrary to the requirements of the Housing Grants, Construction and Regeneration Act.
  - b. It may not be possible to complete all remaining Priority Flood Repair Works.
2. Not to seek a delegation to make the in-year amendments to the capital budget. This is not recommended as the re-alignment of the capital budget is within the envelope of the £4.027m allocated by Council for the repair of the Priority Flood Repair Works and therefore does not adversely impact on the council's financial position.

### Proposal

The Priority Flood Repair Works Capital Programme is realigned as follows:

Project	Original Capital Estimates	Realigned Capital Estimates	Rationale
Fownhope Landslip	£ 1,565,000	£510,000	To align to project outturn cost

Fownhope Retaining Wall Collapse	£ 1,000,000	£1,150,000	To align to project outturn cost
Whitney on Wye Instability	£500,000	£2,367,000	To account for uncertainty in the delivery of remaining schemes. This given that detailed scheme design has yet to conclude and approximately 18 months has passed since the original capital estimates were derived
Various damage Sites	£962,000		
Total	£4,027,000	£4,027,000	No change to programme budget

### Resource implications

The proposed resource implication is the realignment of capital funding within the sum decided for the works programme, this to enable the completion of all Priority Flood Repair Works and the payment of all sums certified as due for the completed works.

### Summary

Project budgets are realigned to account for project outturn to date and enable all payments due to be made. This all with a view to completing the programme within the budget set for the entire programme of Priority Flood Repair Works.