

Title of report: Public Realm Services Annual Plan 2023 - 2024

Decision maker: Cabinet Member Infrastructure and Transport

Decision date: 6 April 2023

Report by: Interim Service Director Transport and Highways

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

(All Wards);

Purpose and summary

To confirm the Annual Plan 2023/24 for the Public Realm Services contract with Balfour Beatty Living Places.

To confirm the approval of the Annual Plan 2023/24 for the Public Realm Services contract with Balfour Beatty Living Places.

Recommendation(s)

That:

(a) the Annual Plan for public realm services, as outlined at Appendix 1 of this report

be approved as the basis for service delivery during 2023/24 with an overall budget of up to £18,668,796; made up of £5,832,587 revenue and £12,867,000 capital budgets as detailed in paragraph 35 below;

- (b) the Interim Service Director Transport and Highways be authorised to agree, through the contract governance arrangements, final adjustments to the programme (including any recommendations from the Strategic Partnering Board) and budget allocation to each of the Annexes and any in-year adjustments to the plan, within the overall budget; and
- (c) the Interim Service Director Transport and Highways be authorised to take all necessary operational decisions in relation to the in-house provision of Public Rights of Way and Traffic Management services and the directly delivered projects identified in paragraph 34 of this report.

Alternative options

1. Not to approve the Annual Plan. This is not recommended as operating without an approved Annual Plan may put the management of budgets, performance and contract management arrangements at risk.
2. If in year changes to the service as detailed in this Annual Plan are required, then these can be best managed, from the baseline position established in the Annual Plan, through the change management processes that are in the Public Realm Services contract and managed through the council's contract management team following instruction for the appropriate commissioner.
3. To approve an alternative Annual Plan for 2023/24; this option is not recommended as the development of the Annual Plan has gone through a robust process with BBLP and the council's commissioners and Contract Management Team to ensure effective prioritisation and asset management have been applied within the overall budgets available.

Key considerations

4. The Public Realm Services contract between Herefordshire Council and BBLP commenced on 1 September 2013. This is one of the council's most significant strategic contracts in terms of range of services and their value. To ensure the services provided through the contract meet the council's requirements, the contract requires the production and agreement of an Annual Plan.
5. Balfour Beatty Living Places (BBLP) has developed and submitted the Annual Plan in accordance with the Public Realm Contract, which has been fully evaluated by the council's commissioners and Contract Management Team. The evaluation confirms that the Plan meets the council's objectives for the public realm (Highways and associated services) and ensures its delivery within the assigned budgets. The council's Public Realm Contract Service Manager accepts the Annual Plan as meeting the terms of the Public Realm Services Contract. The Annual Plan was also approved by the Strategic Partnering Board for the Public Realm Contract on the 15 March 2023.
6. Cabinet member approval completes the governance for the plan and provides confirmation of this acceptance by the council providing a sound basis for managing BBLP's performance during the forthcoming financial year.

7. The services delivered in Herefordshire through the Public Realm Contract support the council's key priorities in Herefordshire's County Plan : [Herefordshire Council County Plan 2020-2024](#)
8. The Annual Plan has been developed by BBLP based on instruction from the council's commissioners, with engagement from ward members and parish councils. It will make best use of the available capital and revenue resources and ensure the delivery of the revenue savings required by the Medium Term Financial Strategy.
9. The council received the draft Annual Plan from BBLP and this has been robustly challenged to ensure that it meets the council's commissioning objectives, delivers the requirements as set out in the contract and is aligned to the council's policies and priorities. The Annual Plan consists of 2 parts:
 - a. The Service Overview (see appendix 1).
 - b. A suite of service annexes.
10. The council's commissioners and Contract Management Team, following a process of challenge and due diligence, formally agreed the service overview and this enables the council to issue the appropriate Service Orders to BBLP for the contract for 2023/24. The council's commissioners and Contract Management Team have robustly challenged the draft Service Annexes submitted by BBLP to ensure that these clearly set out the deliverables for each service area and that the council can identify what is being commissioned. This review and due diligence is programmed to be completed by the end of March, which is in line with the contract conditions.
11. Six Annual Plan engagement events for ward members and town and parish councillors were held at Balfour Beatty Living Places' (BBLP) Thorn Depot over the three days of 23rd to 25th January 2023. Each event was location-specific, covering the whole of the county through the areas of:
 - Hereford City North, South and Rural
 - Leominster and Mortimer
 - Ledbury and Bromyard
 - Ross-on-Wye
 - Weobley and Kington
 - Golden Valley
12. The event was presented by staff from Herefordshire Council and BBLP. The first part of the meeting included a briefing on the forthcoming Local Transport Plan and updates on initiatives such as the Hereford Masterplan and proposals for 20mph Zones. This was followed by a detailed presentation on how the Annual Plan for 23/24 is to be delivered including an overview of schemes. The scheme overview provided information on how the annual plan is developed and prioritised, together with an explanation of how value for money is achieved. Following the presentation, draft maps of the schemes to be included in the annual plan were displayed and representatives from the council and BBLP were available to answer specific questions from councillors.

13. Councillors were offered the opportunity to view the BBLP control hub and the gritting operation after the event. The nature of the weather at the time unfortunately meant that the gritting fleet was out on duty over the three day period. The Council's commissioners received good feedback on the plan for 23/24 on the draft programmes and the condition of the networks and additional considerations for future annual plans including the provision of electric vehicle charging points.
14. In March 2022 the council published a Major Contracts Improvement Plan that includes an action for a fundamental review of the Annual Plan. Work on the review progressed during 2022/23 and was completed and closed out in October 2022. The Annual Plan Service Overview at Appendix 1 is now a shorter and more commercially driven document, which links directly back to the Public Realm Contract and the council's Delivery Plans and Policies. The Public Realm Contract Strategic Management Board agreed the revised Annual Plan Overview on the 15 March 2023.
15. Key improvements made during 2022/23 in the delivery against the requirements set out in the Major Contract Improvement Plan now form part of a new operating model adopted by the Council in the management of the Public Realm Contract. These are:
 - The role of the council's contract management team being clearly defined to manage commercial matters and the commercial interface between the council and BBLP to ensure that the required commercial tension is within the contractual relationship.
 - Revised procedures within the contract management to ensure that:
 - i. commissions comply with the council's procurement rules.
 - ii. commissions demonstrate value for money
 - iii. the contract is delivering to the required commissioned outcomes.
 - iv. the contract complies with council policies.
 - The introduction of a new structure within the Economy and Environment Directorate reinforces the roles of Commissioner and Contract Management which has provided clarity to the management of the Public Realm Contract with clearly defined roles and responsibilities now established.
 - The introduction of specialist cost management expertise to assist the council's commissioners in determining value for money.
 - The introduction of a Risk Management Board attended by the council's Contract Management Team ensuring that risks are identified and managed in compliance with the council's requirements.
16. In accordance with the Public Realm Contract BBLP are required to achieve Cashable Savings of 3% in the relevant financial year (or whatever equivalent efficiency measure that may be placed upon the employer by central government or reasonably agreed between the employer and the provider during the contract period) and the savings target for the public realm contract for FY 2023/24 is **£574,000 (Revenue £334,000 & Capital £240,000)** as follows:

Saving Opportunity	Approach to Achieve Saving	In Year Savings Target
Gainshare (Capital)	Value engineering of target costed schemes to generate gainshare for HC	£240,000
Network Income	Increase in Network income from New Roads and Street Works Act (NRSWA)	£194,000
Plant Utilisation	Cross service utilisation of plant to reduce rental costs	£10,000
Investment in Sweepers, small excavators, and chipper	Capital purchase Sweepers, small excavators, and chipper to reduce the ongoing revenue expenditure for hire costs for these items.	£100,000
Increase Charges	Increased charge by 15% for skips, scaffolds and drop kerbs	£5,000
Reduced Gritter Maintenance	In year reduced maintenance costs for gritters as a result of investment in new gritters	£25,000
	Total	£574,000

17. The council, as part of its Medium Term Financial Strategy has also been required to reduce its revenue budget for the public realm contract for FY 2023/24 by £350,000 and following negotiations with BBLP the following savings were agreed:

Service	Detail	Annual Saving
Winter Service	Reduce number of winter service vehicles by 1	£50,000
Cleansing	Removal of 1 mechanical sweeper	£90,000
Sports Pitches	Increased cost recovery	£30,000
Street Works	Coring Programme	£30,000
Asset Management	Capitalisation of Bridge Assessments	£100,000
Green Claims Recovery	Increase number of green claims recovered	£50,000
	Total	£350,000

18. The council, in its approach to best practice, has developed and operates a risk based approach to routine highway maintenance in accordance with the latest highway

maintenance codes of practice.

19. The risk based approach within the Highways Maintenance Plan has been in place for 5 years and an extensive review of the implementation is now complete. The Annual Plan 2023/24 programmes of work have been constructed in accordance with this risk-based approach and in line with the current council policy and priorities.
20. Like many councils the highways network has deteriorated over time with central government grants not able to cover all the capital investment required to prevent further deterioration of the highway network. Revenue budgets are fully utilised each year to keep up with repair work to ensure that the network is in a safe condition before longer term capital investment is available. The road network has a backlog of maintenance, the values are estimated from national guidance, as a high-level analysis the figures reflect and are representative of the view of deterioration across the highways asset. This would be to bring all assets back to a new condition.

Asset Type	Current Estimated Backlog (Minimum Value)
Carriageways	c£91m
Footways and Cycle ways	c£100m
Structures	c£85m
Street Lighting	c£5m
Traffic Management	c£16m
Street Furniture	c£13m

21. Whereas the service are managing the asset within the available funding by functional requirement. The council continues to lobby central government for additional support for highways maintenance and it is not sustainable to pass all this onto local residents.
22. In accordance with the Public Realm Contract, the Contract Management Team has been in negotiation with BBLP over the setting of the Strategic Performance Indicators and Operational Performance Indicators for 2023/24. Following a failure to agree any changes for 2022/23, the Strategic Performance Indicators and Operational Performance Indicators were held at 2021/22 performance levels in accordance with the Public Realm Contract.
23. To support the development of the Annual Plan, the Contract Management Team have undertaken a commercial review on the contract Strategic Performance Indicators (SPIs) and Operational Performance Indicators (OPIs) that will set out performance management requirements for the Annual Plan. Following a series of negotiations the arrangements for 2023/24 are as set out below:

Strategic Performance Indicators – to be held at 2021/22 performance levels with a joint review to be completed by September 23 to review and update the indicators in preparation for the findings of the Future Operating Model, with new indicators and performance thresholds available to be used for 2024/25.

Operational Performance Indicators – the performance thresholds have been reset to increase the performance requirements from BBLP on the following indicators:

	OPI Title	21/22 Target	Amendment for 2023/24
1	OPI 2.1 - Category 2a Defects	80%	Agree to move target to 85% - 95% target. (85% 6 winter months Oct-Mar), (95% 6 summer months Apr - Sept).
2	OPI 2.2 -Category 2b Defects	80%	Agree to move target to 85% - 95% target. (85% 6 winter months Oct-Mar), (95% 6 summer months Apr - Sept).
3	OPI 18 - Grass Cutting	90%	Threshold to increase to 95%.
4	OPI 19.1 - Street Cleansing	90%	Threshold to increase to 95%.
5	OPI 19.2 - Street Cleansing (Fly Tipping)	N/A*	Threshold to increase to 95%.
6	OPI 20 - Gully Cleansing and Ditching	90%	Threshold to increase to 95%.
7	OPI 21 - Programme Management	85%	Threshold to increase to 95%.
8	OPI 24 - Supervisory checks	N/A*	Threshold to increase to 95%.
9	OPI 25 - Budget Management	N/A*	Threshold to increase to 99%.

* - OPIs 5, 8 and 9 did not have agreed contract thresholds set as these were previously draft or under trial.

24. In addition to the amendments to the performance thresholds, the Contract Management Team have instructed BBLP to nominate the 8 Operational Performance Indicators which will be used to determine the fee payable, subject to it meeting the performance thresholds. Following BBLPs initial proposal, which has been considered by the Council's Commissioners and Contract Management Team, the following 8 Operational Performance Indicators, will be used as part of the monthly Cost of Services Paid to Date to assess the fee payable to BBLP based on its performance targets. The agreed top 8 operational performance indicators are:

OPI 1 - Category 1 Defects

OPI 2.1 - Category 2 Defects

OPI 3- Street Lighting faults

OPI 6 - Winter Maintenance

OPI 16 - Highway inspection

OPI 18 - Grass Cutting

OPI 19.1 - Street Cleansing

OPI 19.2 - Street Cleansing (Fly Tipping)

OPI 20 - Gully Cleansing and Ditching

Community impact

25. Effective management of the public realm, which includes highways, parks and public rights of way, is an important contributor to the county's health, wellbeing and economy.
26. A measurable Annual Plan provides a mechanism for monitoring performance and supports the council to achieve its corporate plan priority to secure better services, quality of life and value for money for the people of Herefordshire

Environmental Impact

27. Please state how this decision / proposal seeks to deliver the council's environmental policy commitments and aligns to the following success measures in the County Plan.
 - The Annual plan covers significant drainage issues on the networks helping to reduce the impact of flooding.
 - Performance measures are in place aimed at reducing waste.
 - BBLP as our partners actively seek to reduce carbon emissions
 - Maintenance of the open spaces included in the Annual Plan improve residents' experience in accessing to green space in Herefordshire
 - Maintenance of footpaths and cycle ways help to increase the number of short distance trips being done by sustainable modes of travel
28. Herefordshire Council provides and purchases a wide range of services for the people of Herefordshire. Together with partner organisations in the private, public and voluntary sectors we share a strong commitment to improving our environmental sustainability, achieving carbon neutrality and to protect and enhance Herefordshire's outstanding natural environment.
29. The environmental impact of this proposal has been considered through the service specification and includes appropriate requirements on the contractor/delivery partner to minimise waste, reduce energy and carbon emissions and to consider opportunities to enhance biodiversity. This will be managed and reported through the ongoing contract management. Performance measures are in place to encourage the contractor to adopt the Council's carbon reduction targets, utilising local suppliers, improving biodiversity, active and sustainable transport options, zero waste targets and reducing energy usage.

Equality duty

30. 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.
31. 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. BBLP is fully aware of their contractual requirements in regards to equality legislation, and is proactive in considering its duty when commissioned by or working with the council to introduce public realm projects. The effective management of the public realm supports equality through the improvement of access to public spaces and maintenance (lighting, footways etc) of public rights of way. This supports persons that share a protected characteristic in particular those that are disabled and women.

Resource implications

32. The Annual Plan is funded as summarised in the table below. In line with the approved annual capital and revenue budgets which in turn align to the council's medium term financial strategy and capital strategy.
33. The revenue budget for 2023/24 presented in table below takes account of the £239,207 revenue interest repayment for 2023/24.
34. The LTP capital budget shown in table below includes council staff capitalisation costs at £1,217k, these are Highways and Transport staff that are working on the Local Transport Plan (LTP) activities. Timesheets are kept to record time spent on Capital activities and a value of £1,217K is the anticipated level of costs for 2023/24. The LTP Capital budget also includes £554K for road Infrastructure borrowing principle repayments, £125K for legal payments and £50k for habitats regulations assessment, and an estimated £653K for directly delivered projects and therefore £2,599k is retained to spend by HC activity to support delivery of the LTP.
35. All funds have been invested in accordance with the council's asset management strategy and Highway Management Plan and the budgets for 2023/2024 are as follows:

Revenue	2023/24
Gross Base Budget	5,967,946
Inflation Uplift	560,170
Commuted Sums	290,678
Lengthsman scheme	250,000
RCCO Repayments	239,207
Less: Council Led Reductions	-350,000
Less: BBLP 3% Efficiencies	-334,000
Less: Commissioning Contingency	-200,000
Gross Base Budget	5,945,587
Income (NRSWA, Dropped kerbs)	-113,000
BBLP BUDGET FOR WORKS	5,832,587

Capital	2023/24
Local Transport Funding Block	
Highways Maintenance Block	£000
Band 3	6,395
Integrated Transport Plan	1,599
National Productivity Investment Fund	1,077
Pothole Fund	6,395
	15,466
Retained Herefordshire Council	
Staff Capitalisation	1217
Land Owners / Easements /License payments	125
HRSA	50
£20m Road Infrastructure principal repayments	554
Traffic Study	70
Safety Scheme	50
PROW	283
TRO	170
Weight Limit's	30
20mph Speed Limits	50
	2,599
LTP monies to be used across various programmes	£0
BBLP Capital Budget	12,867

36. The Annual Plan service overview appended to this report confirms service costs are aligned with the approved revenue and capital budgets. There is a risk that the provision of service cost could exceed the approved budget as services are delivered throughout 2023/24. To mitigate this costs will be monitored regularly by the Contract Management Team to prevent overspend against budget. If costs are forecast to exceed the above budget this is referred to the council's commissioners as further decision will be required to maintain service delivery.
37. It is recommended that the Interim Service Director Transport and Highways be authorised to make any in year adjustments as recommended by the strategic partnering board, these adjustments will be in line with scheme of delegation and financial procedure rules. Any adjustment above that value would be subject to a separate governance decision.

Legal implications

38. This is an Executive function under the Council's Constitution Part 3 Section 3 and 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 in Herefordshire) affected.
39. It is also likely to result in the council incurring expenditure which is, or the making or savings which are, significant having regard to the Council's budget for the service or function concerned. This key decision is delegated to the Cabinet member Infrastructure and Transport as it relates to their portfolio.
40. The contract with BBLP enables the council to discharge a number of significant statutory duties to provide a number of services relating to the public realm. A list of the relevant legislation and policy context, together with the approved policies and procedures to be used by BBLP in the delivery of the Annual Plan are retained by the councils Contract Management Team. In addition the council has a general duty to secure best value in the exercise of all of its functions. The development and review of the annual plan, as part of the council's long term contractual relationship with BBLP, is a key mechanism for the discharge of these legal duties.
41. The delegation to the Interim Service Director Highways and Transport is permissible and allows the officer to make changes to the actual services delivered during 2023/24 and allocations in the Plan as agreed within the budget. As the cabinet member has made the decision to agree the Annual Plan as a basis for the service delivery, any changes to the plan will be operational decisions and will require a record of officer decision to be published.

Risk management

38. A comprehensive review of the Annual Plan undertaken by the council's commissioners and Contract Management Team. Risks, their consequences and any mitigating actions have been considered in detail in the development of the Annual Plan. Risk is managed through the governance structures created for and supported by the public realm services contract, which links with and escalates to the council's corporate risk management regimes.

Consultees

- 39 The drafting of the Annual Plan were consulted with key clients officers from Herefordshire council and BBLP. Feedback and lessons learnt for service improvement were brought into the finalisation of the annual plans.
- 40 Political Groups, elected members and Parish councils. As detailed in paragraph 13, the council's commissioners received good feedback on the plan for 23/24 on the draft programmes and the condition of the networks and additional considerations for future annual plans including the provision of electric vehicle charging points.

Appendices

Appendix 1: Annual plan service overview 2023/24

Background papers

None