

**EXECUTIVE MEMBER - REGENERATION**

<b>Date:</b> Tuesday 13th July, 2021
<b>Time:</b> 11.30 am
<b>Venue:</b> Council Chamber

**AGENDA**

1. Withdrawal of the Development Brief for Hemlington North. 3 - 18
2. 2021/22 Transport and Infrastructure Capital Programme 19 - 24

Charlotte Benjamin  
Director of Legal and Governance Services

Town Hall  
Middlesbrough  
Monday 5 July 2021

**MEMBERSHIP**

Councillors E Polano (Chair), ,

**Assistance in accessing information**

**Should you have any queries on accessing the Agenda and associated information please contact Susie Blood, 01642 729645, [susie\\_blood@middlesbrough.gov.uk](mailto:susie_blood@middlesbrough.gov.uk)**

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<b>Report of:</b>	Director of Regeneration, Richard Horniman Executive Member for Regeneration, Cllr Eric Polano
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<b>Submitted to:</b>	Individual Executive – Executive Member for Regeneration 13 July 2021
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<b>Subject:</b>	Withdrawal of the Development Brief for Hemlington North.
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**Summary**

<b>Proposed decision(s)</b>
That Executive withdraws the development brief for Hemlington North.

<b>Report for:</b>	<b>Key decision:</b>	<b>Confidential:</b>	<b>Is the report urgent?</b>
Decision	No	No	No

<b>Contribution to delivery of the 2020-23 Strategic Plan</b>		
<b>People</b>	<b>Place</b>	<b>Business</b>
The proposals aim to ensure high quality housing for our existing and future residents.	The development briefs promote high quality housing development, which will make a positive contribution to creating attractive places that will make Middlesbrough look and feel amazing.	The development of high quality housing means significant investment in the borough, creating jobs and supporting growth, and creating positive perceptions of our town on a national basis.

<b>Ward(s) affected</b>
This report affects Stainton and Thornton Ward.

## **What is the purpose of this report?**

1. To withdraw the Development Brief for Hemlington North.

## **Why does this report require a Member decision?**

2. Executive approval as this is seeking to reverse a decision made by the Executive at its meeting of 18<sup>th</sup> October 2020.

## **Report Background**

3. The Executive approved a Development Brief for the development of land at Hemlington North in October 2020. The site forms part of the wider Hemlington Grange mixed-use development site that is allocated in the Housing Local Plan (2014), and already has the benefit of an extant outline planning permission. The brief was intended to act as guidance for when the Council marketed the site, and to assist in assessing the suitability of any subsequent schemes.
4. Following adoption of the Development Brief the Council received representation from an interested member of the public questioning the validity of the document, its role as a Supplementary planning Document and whether it could actually be used in the planning process owing to a conflict with the Local Plan. This conflict arose because the brief allowed apartments in the north east corner of the site if their inclusion would support good design and place making. This conflict was recognised and hence why the brief was not adopted as a Supplementary Planning Document. Whilst the brief would be a material consideration in the planning process the weight attached to it would be limited, particular with regards to the inclusion of the apartments. The provisions of the Local Plan would be the prime consideration unless material considerations dictate otherwise. Such material considerations could include design and place making, but these would need to be weighed in the balance in assessing any application.
5. As this matter has clearly caused some confusion it is felt more appropriate that to avoid any doubt or misunderstanding to withdraw the Development Brief. Instead the design criteria will be included within the marketing particulars issued by the Council in the disposal of the site. This will then form part of the assessment of bids in choosing the successful scheme. In doing so the Council can still ensure that a high quality design can be achieved when the site comes forward.

## **Next Steps**

6. The Development Brief to be formally withdrawn and the design guidance contained therein will be incorporated into the marketing particulars for the disposal of the site

## **What decision(s) are being asked for?**

7. That Executive withdraws the Development Brief for Hemlington North.

## **Why is this being recommended?**

8. To provide greater clarity on the planning framework for the site, and to strengthen the marketing particulars to ensure that an appropriate scheme is delivered.

## **Other potential decisions and why these have not been recommended**

9. **Not to withdraw the Development Briefs for Hemlington North.** It is clear that the continued adoption of the Brief creates a level of confusion which if not addressed could lead to a challenge to any subsequent planning scheme/permission. Whilst the success of such a challenge is considered to be an extremely low risk it has the potential to delay the ability to bring the site forward quickly.

## **Impact(s) of recommended decision(s)**

### ***Legal***

10. There is no legal requirement for Development Briefs to be prepared for sites. However, whilst the adoption of the Development Brief was not intended to be an SPD, confusion surrounded the purpose of the Development Brief which in turn gave rise to whether or not a conflict with the Development Plan arose. Planning applications should be assessed against s.38(6) Planning and Compulsory Purchase Act 2004. Withdrawal of the Development Brief does not alter the status of the site as an allocation in the Housing Local Plan (2014) which remains the basis for the consideration of any planning application.

### ***Financial***

11. Withdrawal of the Development Brief and incorporation of the design guidance into the marketing particulars will have financial implications. This approach also minimises the potential for challenge and therefore the costs associated with addressing such a challenge.

### ***Policy Framework***

12. Withdrawal of the Development Brief will not alter the Policy Framework.

### ***Equality and Diversity***

13. The withdrawal of the Development Brief for Hemlington North has been subject to an initial Impact Assessment (IA), which accompanies this report (see Appendix 1). This identifies that a full IA is not necessary.

### ***Risk***

14. This action will support the delivery of the Council's housing growth programme, which is critical for the successful delivery of the MTFP (O1-051 and O1-045).

## **Actions to be taken to implement the decision(s)**

15. Withdraw the Development Brief and incorporate the design guidance into the marketing particulars for disposal of the site.

## **Appendices**

- Appendix 1 – Initial Impact Assessment of withdrawal of the Development Brief for Hemlington North.

### Background papers

Body	Report title	Date
Middlesbrough Council	Adoption of Development Briefs for sites at Hemlington North and Hemlington Grange South	October 2020
Middlesbrough Council	Draft Development Briefs for land at Hemlington North and Hemlington Grange South	March 2020
Middlesbrough Council	Hemlington North Draft Development Brief	July 2018

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**SAFETY HEALTH AND ENVIRONMENTAL ISSUES**

IN ADDITION TO THE RISKS AND HAZARDS, NORMALLY ASSOCIATED WITH THE TYPES OF WORK DETAILED ON THIS DRAWING, YOUR ATTENTION IS DRAWN TO THE FOLLOWING RESIDUAL RISKS

Rev	Date	Details
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**Middlesbrough Council**

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Project  
**2021/22 Capital Programme Map**  
 Drawing

File Ref	Drg no	Revision
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Date	Drawn	Scale
29 Jan	AG	A1

Tender Reference Number

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Indicative levels per annum	Value
IT	1057
HM	1473

Annual Allocations	Value	One off allocations
Local Transport Plan Highway Maintenance	1473	Known Carry forward
Local Transport Plan Integrated Transport	1057	S106 S106 (Housing mitigation) Capital Receipt (Hemlington Grange) Active Travel Fund 2 Transforming Cities Fund Council Capital

Indicative programme
Highway Maintenance

C/F
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Other
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	Programme delivery, management and future development

<b>Integrated Transport</b>	<b>Road Safety and Traffic Management</b>
	<b>Sustainable Transport</b>

<b>S106 / Capital Receipt / Developer contributions</b>	<b>Road Safety and Traffic Management</b>
	<b>Programme delivery, management and future development</b>
	<b>Traffic Flow Improvements</b>

<b>Known Carry Forward schemes</b>	<b>Sustainable Transport</b>
	<b>Car Parking</b>
	<b>Programme delivery, management and future development</b>

<b>Other</b>	<b>Sustainable Transport</b>
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Value	
466	Zetland pay developme
30	(£30k Rowa
	TBC
	Linked to Li
	Linked to Li

**2021/22**

Project	Value
carriageways	500
Footways	400
Verges	150
Structures and Bridges	150
Flooding/drainage	75
Street lighting	100
Officer time	50
Contingency	48
<b>Total</b>	<b>1473</b>

Column replacements	
<b>Total</b>	<b>0</b>

Council Capital - bridges	
<b>Total</b>	<b>0</b>

**Highway Maintenance Total 1473**

Officer time	90
Future years development allocation/match allocation contributions	101
Previous years scheme remediation	100
General Traffic Management	100

Marton/Marton Grange Road puffin upgrade	40
Marton Cross Roads signal refresh design	20
Puffin upgrade Newport Road / Fleetham Street Dual Pelican	50
Queens Square/Bridge St West crossing	100
Puffin upgrade Trimdon Ave / The Grenadier Pelican	40
Roman Road/Oxford Road signal upgrade	130
Rowarth Road Toucan (contribution)	10
Low Lane Connectivity (B1365 crossing)	96
Low Lane connectivity (Curly bridge to Brookfield Ave/ped signals at junction)	180
<b>Total</b>	<b>1057</b>

Rowarth Road Toucan	30
Hemlington Grange Connectivity/accessibility	
Corridor review (Stainton Way)	
Dixons Bank/Guisborough Road	
<b>Total</b>	<b>30</b>

Ridgeway connectivity (Hemlington Grange)	45
Zetland pay on exit/ticket machines	376
Future years scheme development	45
<b>Total</b>	<b>466</b>

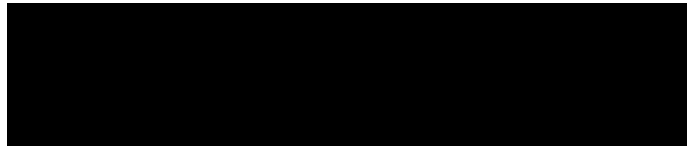
Local Cycling and Walking Implementation Plan - Active Travel Fund (Linthorpe Corridor)	
<b>Total</b>	<b>0</b>

**Integrated Transport Total**      **1553**

**Programme Total**                      **3026**

**Available budget**                    **3026**

**Balance**                                      **0**



/ on exit/ticket machines, Ridgeway and scheme  
nt

arth Road)

inthorpe Road Cycle route (if approved)

inthorpe Road Cycle route (if approved)

Comments
TBC
TBC
Required for revenue
To allow future scheme development/Mobility corridor exercise delivery/match for members small schemes - can increase
To deliver lining, signing, Traffic Regulation Orders and other small improvements throughout the year

corrosion issues
Design a scheme to deliver signal refresh, and enhance alternate mode accessibility
corrosion issues
Designed (20/21) - equipment purchased. Need allocation to conclude
Designed (20/21)
Designed (20/21)
contribution toward S106 project - may be required
continued scheme - carried forward elements included - need costs - traffic signal equipment purchased 2020
continued scheme (include Ped crossing - signal equipment purchased 2020)
Likely to require LTP contribution
TBC Crossing at Hemlington North - values to be confirmed
Develop proposals for future delivery
TBC - scheme being designed, awaiting allocation of funding
Not resolved in 20/21
Not resolved in 20/21
TBC values end of year - indicative value here
TBC following consultation/approvals

Template for Impact Assessment Level 1: Initial screening assessment

<b>Subject of assessment:</b>	2021/22 Capital Programme Transport and Infrastructure			
<b>Coverage:</b>	To cover the proposed funding allocations and projects within the 2021/22 Capital programme for Transport and Infrastructure			
<b>This is a decision relating to:</b>	<input type="checkbox"/> Strategy	<input type="checkbox"/> Policy	<input checked="" type="checkbox"/> Service	<input checked="" type="checkbox"/> Function
	<input type="checkbox"/> Process/procedure	<input checked="" type="checkbox"/> Programme	<input checked="" type="checkbox"/> Project	<input type="checkbox"/> Review
	<input type="checkbox"/> Organisational change	<input type="checkbox"/> Other (please state)		
<b>It is a:</b>	<b>New approach:</b>	<input type="checkbox"/>	<b>Revision of an existing approach:</b>	<input type="checkbox"/>
<b>It is driven by:</b>	<b>Legislation:</b>	<input type="checkbox"/>	<b>Local or corporate requirements:</b>	<input checked="" type="checkbox"/>
<b>Description:</b>	<p><u>Key aims, objectives and activities</u></p> <p>The 2021/22 Capital Programme sets out the projects that will be delivered within the financial year based on the available funding. The projects are derived from the available funding, ensuring fit with Council aims, objectives and policies.</p> <p><u>Statutory drivers (set out exact reference)</u></p> <p>As a Highway Authority, the Council has statutory duties, as set out within the Traffic Management Act 2004. "It is the duty of a Local Traffic Authority to manage their road network with a view to achieving, so far as is reasonably practicable having regard to their other obligations, policies and objectives, the following objectives;</p> <p>(a) Securing the expeditious movement of traffic on the Authority's road network; and</p> <p>(b) Facilitating the expeditious movement of traffic on road networks for which another Authority is the Traffic Authority."</p> <p>The projects within this programme are aimed at ensuring compliance with this requirement.</p> <p><u>Differences from any previous approach</u></p> <p>No changes are anticipated from any previous approaches adopted.</p> <p><u>Key stakeholders and intended beneficiaries (internal and external as appropriate)</u></p> <p>Residents, Businesses, Politicians, Council Officers, Public Transport operators, and visitors to the area.</p> <p><u>Intended outcomes.</u></p> <p>To ensure that the Council is delivering projects that meet with statutory requirements of the Traffic Management Act 2004, and to the benefit of the Council and its stakeholders.</p>			
<b>Live date:</b>	2021			

<b>Lifespan:</b>	This will be live throughout the duration of the 2021/22 programme
<b>Date of next review:</b>	n/a



Screening questions	Response			Evidence
	No	Yes	Uncertain	
<b>Human Rights</b> Could the decision impact negatively on individual Human Rights as enshrined in UK legislation?*	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>The programme aims to improve access to transport for all residents. This will assist in improving accessibility to education, employment, training, retail and leisure facilities by making reasonable adjustments to services provided to new proposals, and retrofitting existing infrastructure, and therefore not impact negatively upon human rights.</p> <p>Evidence used to inform this assessment includes analysis of the Human Rights Act 1998.</p>
<b>Equality</b> Could the decision result in adverse differential impacts on groups or individuals with characteristics protected in UK equality law? Could the decision impact differently on other commonly disadvantaged groups?*	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>The Public Sector Equality Duty (PSED) requires that when exercising its functions the Councils must have due regard to the need to:-</p> <ul style="list-style-type: none"> <li>eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;</li> <li>advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and</li> <li>foster good relations between persons who share a relevant protected characteristic and persons who do not share it.</li> </ul> <p>In having due regard to the need to advance equality of opportunity, the Council must consider, as part of a single equality duty:</p> <ul style="list-style-type: none"> <li>removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;</li> <li>taking steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of people who do not share it; and;</li> <li>encouraging people who share a protected characteristic to participate in public life or in any other activity in which participation is low.</li> </ul>
				<p>The projects within this programme aim to improve transport access to all residents. The Council is bound by legislation, which includes ensuring that those with physical and learning disabilities, and inhibited mobility are not detrimentally impacted upon. Therefore, there are no concerns that this will impact adversely upon equality.</p> <p>Evidence used to inform this assessment includes analysis of statutory guidance in relation to accessibility, including the Access for All legislation</p>

\* Consult the Impact Assessment further guidance appendix for details on the issues covered by each of these broad questions prior to completion.

Screening questions	Response			Evidence
<p><b>Community cohesion</b></p> <p>Could the decision impact negatively on relationships between different groups, communities of interest or neighbourhoods within the town?*</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>Although some of the projects within this programme could divide opinion, there is no evidence to suggest that this will impact negatively upon relationships between different community groups. The Council has a duty to consult proposals with the community, and will do so in order to gauge community opinions prior to commencing with proposals derived from this programme. It is therefore not considered that this will have a negative impact upon community cohesion. This programme will help to maintain sustainable access routes to communities and safe road networks.</p> <p>The Council proposes to undertake consultation with the community prior to commencing projects, which will identify any potential issues that will need to be addressed.</p>
<p><b>Next steps:</b></p> <p>➡ If the answer to all of the above screening questions is No then the process is completed.</p> <p>➡ If the answer of any of the questions is Yes or Uncertain, then a Level 2 Full Impact Assessment must be completed.</p>				

<b>Assessment completed by:</b>	Chris Orr	<b>Head of Service:</b>	Sam Gilmore
<b>Date:</b>	20/1/2021	<b>Date:</b>	

<b>Report of:</b>	<i>Richard Horniman; Director of Regeneration, Geoff Field; Director of Environment and Commercial Services, Cllr Eric Polano, Executive Member for Regeneration</i>
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<b>Submitted to:</b>	<i>Individual Executive Member- Executive Member for Regeneration- 13 July 2021 Executive</i>
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<b>Subject:</b>	<i>2021/22 Transport and Infrastructure Capital Programme</i>
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<b>Proposed decision(s)</b>
<i>That Executive approves the proposals to allocate funding to deliver infrastructure as identified within the report.</i>

<b>Report for:</b>	<b>Key decision:</b>	<b>Confidential:</b>	<b>Is the report urgent?<sup>1</sup></b>
<i>Information and approval</i>	<i>Yes</i>	<i>n/a</i>	<i>n/a</i>

<b>Contribution to delivery of the 2020-23 Strategic Plan</b>		
<b>People</b>	<b>Place</b>	<b>Business</b>
<i>The proposals will improve safety, accessibility and usability of the Councils Transport network; ensuring that people can access employment, education, retail and leisure opportunities.</i>	<i>The proposals will improve accessibility to key services and facilities, and assist the Borough in improving its reputation and aesthetics by improving the public realm, and reducing congestion and traffic noise, and improving air quality.</i>	<i>By improving accessibility to key economic centres, the Council will be improving business opportunities for further inward investment by ensuring that transport does not act as a barrier to economic growth.</i>

<b>Ward(s) affected</b>
<i>All wards. Identified schemes are marked on the Ward map in appendix 1.</i>

**What is the purpose of this report?**

- 1) The purpose of this report is to gain approval to allocate funding to develop and deliver transport and infrastructure improvements contained within the report.

<sup>1</sup> Remove for non-Executive reports

## **Why does this report require a Member decision?**

- 2) This requires a decision as the proposals will impact upon the whole Borough, and utilise a cocktail of funding allocations secured by the Council. Approval will ensure that the proposals are aligned with the Council's ambitions and objectives.

## **Report Background**

### **What decision(s) are being asked for?**

- 3) That Executive approves the allocation of funding to develop and deliver infrastructure improvements as outlined within the report.

### **Why is this being recommended?**

- 4) This is being recommended as it will allow prudent allocation of funding to ensure that the Council is not only working toward its ambitions and objectives, but is allocating resources to ensure statutory requirements placed upon the Council as the Highway Authority, "to ensure the safe and expeditious movement of people and goods on its network".
- 5) The allocations that are being proposed are based on ensuring a balance between maintaining existing asset, and making improvements to the accessibility of the current network/alternate modes of transport enhancements. This balance is crucial in order to ensure the safety of the infrastructure, and to assist in encouraging sustainability of the network.

## **Background Information**

- 6) Middlesbrough Council is pass ported Local Transport Plan (LTP) funding from the Department for Transport (DfT) via Tees Valley Combined Authority (TVCA) to undertake maintenance and improvement works on the Council's transport network.
- 7) The final allocation is yet to be provided by the DfT. However, the indicative allocation is £1.057m Integrated Transport (new works) and £1.473m Highway Maintenance (£2.53m total) as per the last three years of allocation. This forms the basis of the proposed allocations.
- 8) Similarly, the Council has identified funding allocations linked to Housing developer transport impact mitigation in the form of S106 and calls on the capital receipt (where Council land is disposed). These figures are indicatively included within the programme.
- 9) Several schemes from 2020/21 have been identified at this point to require being undertaken in 2021/22 due to delays associated with COVID19. The values associated with them are indicative, and may fluctuate dependent upon progress and expenditure within the 2020/21 financial year.
- 10) The projects within the proposed programme have been identified from the Council's "Future Year scheme" list. This is a compiled table of all known requirements and

suggestions received, which are ranked for their suitability against a set criteria. This then forms the priority basis. This is however dependent upon external funding criteria, statutory obligations and other implications.

- 11) The maintenance schemes are based on asset condition rating systems, and allocation of resources work to address a “worst first” is used. This is rationalised on the basis of public safety and asset longevity priorities (such as ensuring that structures are safe). This ensures that the Council is addressing the areas of the network in most need of resolving.
- 12) The Council also receives specific allocations through competitive grant programmes and awards that are to deliver prescribed pieces of work, depending upon national / regional criteria. Any awards for such projects by-pass the scoring criteria (although this may be used to identify the most suitable candidates), and can be awarded / is accessible throughout the year. The proposals within this report include all known awarded allocations at time of approval, but can be subject to change. If so, approvals will be sought through the formal decision making process.
- 13) The full funding allocations used to identify the projects / programmes can be found in appendix 2.

### **Other potential decisions and why these have not been recommended**

- 14) The other potential decisions that have not been recommended include:
  - a) Do nothing - this is not recommended as it will not allow the Council to allocate funding and make the necessary arrangements in advance of receipt of the allocations. The delivery of infrastructure improvements require prudent planning, and co-ordination, so approvals in a timely manner are pivotal to ensuring a successful delivery programme.
  - b) Re-assessing the project proposals – this is not recommended, as they have been identified using a scoring matrix to ensure best allocation of resources. Any changes would deviate from this process, and add delays to progressing.
  - c) Approve the proposals and deliver as programmed (Preferred Option). This will enable the Council sufficient time to plan and prepare the programme for 2021/22, and provide the best chances of successful delivery.

### **Impact(s) of recommended decision(s)**

#### ***Legal***

- 15) Any legal issues associated with the approved programme will be managed through the Council’s established procedures. The allocations within this report are indicative, are not committed and can alter. Should the figures vary significantly from the indicative levels, appropriate approvals will be sought.
- 16) The funding allocations and proposed expenditure is required in order to ensure the Council complies with Highways Act 1980.

## ***Financial***

- 17)The proposals have been costed at a high level (including an element for contingencies), based on delivering similar schemes in previous years.
- 18) Should costs exceed the available budget, the programme can be re-prioritised, and projects removed to account for unforeseen additional expenditure. This can be completed via Officer Delegated Decision, as the approved Transport and Infrastructure Capital Programme permits resource re-allocation up to the value of 15% or £25k (whichever is higher) to be delegated to the Director of Regeneration, in consultation with the Executive Member for Economic Development and Infrastructure.
- 19)Should additional funding become available during the financial year, this will be subject to the same rules and regulations, and Executive/financial approvals.

## ***Policy Framework***

- 20)The decisions within this report align with the Councils policy framework and will not require alterations to this.

## ***Equality and Diversity***

- 21)It is not anticipated that any other protected groups will be impacted upon negatively as a result of progressing with proposals. The Equality Impact Assessment in appendix 3 provides the evidence that allowed this conclusion.

## ***Risk***

- 22)The funding allocations identified are indicative, or are pending funding allocation within the programme. Should funding levels alter, there is an element of contingency within the proposed programme. Should this be exceeded, the programme will be re-addressed and approval sought to allow re-prioritisation to fit with the available funding.
- 23)By approving this allocation of funding, the Council is positively and actively managing risk to support the outcomes of the department, such as not having appropriate planning in place.
- 24)The approval of the programme will allow targeted interventions, which will reduce the risk of Road Traffic Accidents. Without investment in mitigations, those killed and seriously injured as a result of road traffic accidents may increase, particularly in areas where the Council is aware of issues. Additional to increased injury to individuals, this also results in increased costs on other local services (police, NHS etc), but also negative media and damaged reputation would follow.
- 25)By undertaking the programme outlined, there is reduced financial risk. Highway network deterioration is greater than the available funding to maintain it. By approving the allocations, the Council will be able to minimise the number of claims made against it due to surface defects.

## **Actions to be taken to implement the decision(s)**

26) Council Officers, upon approval, will commence producing project management documentation for all new projects, which will be monitored by the Transport and Infrastructure Capital Programme Board, and the Project Management Office. This will ensure prudent and active management of projects. Quarterly progress reports will be produced to ensure senior management are aware of any issues should they arise

## **Appendices**

27) The following appendices have been produced to support the Capital Programme 2021/22 report:

- Ward map of locations for intervention
- Indicative Funding allocations and proposed projects
- Equality Impact Assessment

## **Background papers**

28) The following documents have been consulted in compiling this report:

- Future years scheme document (internal document)

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## **Appendix**

**Appendix 1; Scheme location Map (separate document)**

**Appendix 2; Funding and scheme allocations (separate document)**

**Appendix 3; Equality Impact Assessment (separate document)**

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