

South Lakeland District Council
Cabinet

Wednesday, 8 June 2022

S106 Design Works, Stramongate Kendal

Portfolio: Economy, Culture and Leisure Portfolio Holder, Leader of the Council
Report from: Director of Customer and Commercial Services
Report Author: Laura Chapman – Interim Specialist Economy and Culture
Wards: Kendal Town;
Forward Plan: Budget and Policy Framework Decision included in the Forward Plan as published on 15 March 2022

Links to Council Plan Priorities:

Delivering a balanced community – understanding the needs of local businesses by creating an attractive gateway towards the town centre.

Addressing the climate emergency – by developing town centres which are attractive and accessible for living, working and leisure.

1.0 Expected Outcome and Measures of Success

- 1.1 South Lakeland District Council approves expenditure of S106 monies received from the Sainsbury's development on Shap Road to deliver a public realm project that has been designed to increase visitor footfall to Stramongate and increase the accessibility of the area for pedestrians and cyclists.
- 1.2 The new public realm project has been proposed and guided through the aspirations set out in Kendal Vision and meets the objectives of South Lakeland District Council's own Kendal Town Centre Strategy, which is aligned to Kendal Vision.
- 1.3 This public realm intervention is hoped to provide impetus and inspiration to future town-centre proposals and aims to showcase the aspirations of the Kendal Vision to improve the town for residents and businesses in Kendal.

2.0 Recommendation

2.1 It is recommended that Cabinet :-

- (1) **approve the expenditure of up to £246,043.85 comprising £224,043.85 of Section 106 monies and £22,000 Kendal Town Council contribution, to deliver a street scape project at Stramongate, Kendal as previously agreed as part of the revised Capital Programme considered at Council on 18 May 2022; and**
- (2) **delegate authority to the Lead Specialist Legal Governance and Democracy (Monitoring Officer) [in consultation with the relevant Cabinet member/Leader] to agree terms and enter into a Section 278 agreement with Cumbria County Council to give effect to recommendation (1) and as detailed in section 3 of this report.**

3.0 Background and Proposals

- 3.1 South Lakeland District Council is seeking approval for expenditure of S106 monies received from the Sainsbury's development on Shap Road to deliver a public realm project that has been designed to increase visitor footfall to Stramongate and increasing the accessibility of the area for pedestrians and cyclists.
- 3.2 Within the covenance of the S106 funding agreement received from Morbaine it states that the funding must be used towards; 'Town Centre Improvement Contribution: means the sum of two hundred and eight thousand pounds (£208,000.00) to be used by the Council to fund improvements in the Northern Approach from the railway station at Longpool/Longpool Junction to Kendal Town Centre'. This figure was subject to RPI indexation, meaning the Council received £224,043.85 from the Developer, Morbaine.
- 3.3 The proposed scheme falls within the footprint of expenditure and with the opening of Gooseholme Bridge in summer 2022, access from New Road by pedestrians and cyclists is likely to increase the number of people passing through this junction at Stramongate and Blackhall Road. The proposed scheme has also been guided through the aspirations set out in Kendal which is designed to initiated a call to embrace change, new ideas and innovation for Kendal's future.
- 3.4 The upper part of Stramongate is an important shopping street, with a diverse range of businesses, and it also houses the weekly market. It is a well-used walking route between the High Street, the bus station, the railway station, Kendal Museum, Quaker Tapestry, Stramongate School, Kendal College and other local businesses. This scheme is intended to further encourage walking and cycling on Stramongate.
- 3.5 The improvement scheme proposes that a high quality, raised natural stone paved surface is created on the entrance to Stramongate, which while still allowing left-turning vehicles from Blackhall Road, creates a safe, welcoming entrance point for pedestrians, cyclists and vehicles.
- 3.6 The ramp would drop back down onto the existing road surface and the current on street parking provision will remain. Together with the inclusion of small trees, this will provide a soft visual gateway for vehicles and people entering the shopping street from Blackhall Road for a more pleasant shopping and visitor environment.
- 3.7 While the project delivery budget is limited and currently only enables this small scheme to be developed, this project aspires to demonstrate how the use of good quality natural materials, as identified in the Kendal Vision, can bring benefits to businesses, residents and visitors, and provide an example of the future ambitions for the town's public realm. It is just the beginning in terms of developing the Kendal Vision and additional funding streams will continue to be sought to enable the scheme to be further developed in future.
- 3.8 Kendal Town Council contributed an additional £22,000 that South Lakeland District Council received on 11 October 2018. This funding received from Kendal Town Council is to be used as a contribution towards Town Centre Improvement in accordance with the expenditure details outlined in the S106 agreement with Morbaine without any clawback implications.
- 3.9 This gives the Council a budget of up to £246,043.85 to deliver a street scape project at Stramongate, Kendal as previously agreed as part of the revised Capital Programme considered at Council on 18 May 2022.
- 3.10 A section 278 Agreement is required to enable the delivery of the project and in particular to enable the lawful execution of the proposed highway improvements.

Section 278 of the Highways Act 1980 is the legal power by which the Highways Authority (Cumbria County Council) can formally authorise the carrying out of Highways works.

- 3.11 In general terms, the Section 278 Agreement will specify the authorised scope of highways works, the terms on which the works will be carried out (including any timetable) and will include relevant legal protections to ensure the continued protection of highway users, the highway itself and the Highways Authority. The Section 278 Agreement will also include detailed provisions on expenditure, processes for inspection and certification of works, and drafting which addresses liability, step-in rights and remediation processes where something unforeseen happens.

4.0 Appendices Attached to this Report

Appendix No.	Name of Appendix
1	Proposed Scheme S106 Design Works, Stramongate Kendal
2	Health and Sustainability Impact Assessment

5.0 Consultation

- 5.1 A total of three potential schemes were considered by the Town Team which is made up of elected members and lead officers from Kendal Town Council, South Lakeland District Council, Cumbria County Council and Kendal Futures.
- 5.2 The other potential schemes considered by the Town Team included resurfacing Stramongate carriageway with new tarmac to replace existing tarmac, re-laid to existing road levels. The second option considered was to create a raised surface across the carriageway using natural stone sets at the top end of the street from the corner of Kent Street to where the car parking spaces begin.
- 5.3 Option three (Appendix 1) was the unanimous, favoured option by the Town Team to be taken forward as it creates an impactful entrance and has flexibility to expand in the future. The final scheme costings are currently being finalised and as such the scheme may be subject to minor amendments, however the architect's design outlines the suggested use of materials.
- 5.4 A public engagement process concluded on 27 March 2022. The majority of the responses were positive towards the scheme which would increase opportunities for a safer environment for walking and cycling and creates an attractive environment. It was noted that many responses highlighted the need to develop the scheme further up the street when funding is available.
- 5.5 Consideration for the scheme was sought by Cumbria County Council South Lakes Highways and Transportation Working Group on 25 April 2022. The meeting was held to ensure that a decision could be made at the Local Committee for South Lakeland meeting on 12 May 2022. The Working Group voted in favour of removing the trees from the proposed scheme and for this recommendation to be considered by the Local Committee.
- 5.6 The recommendation was considered at Local Committee for South Lakeland on 12 May 2022 and it was resolved that the Local Committee noted that Officers will proceed with the Street scape improvement scheme for Stramongate and the proposal to remove the trees from the scheme was overturned. Therefore South Lakeland District Council and Cumbria County Council will enter into a Section 278 agreement to deliver the scheme and investigate the inclusion of trees upon the highway survey outcomes.

6.0 Alternative Options

- 6.1 Alternative option would be not to grant approval of the expenditure and the S106 money received would be returned to the Developer (Morbaine).

7.0 Implications

Financial, Resources and Procurement

- 7.1 The Council received a total amount of funding available through the Section 106 agreement to deliver the proposed scheme of £246,043.85. The S106 contribution received from Morbaine was £224,043.85 from the Sainsburys development (received on 23 November 2017) with a further contribution of £22,000 from Kendal Town Council received on 11 October 2018. The funding from Morbaine must be spent within the period of 5 years from the payment date (by 23 November 2022).
- 7.2 The expenditure of the S106 money has been included on the Capital Programme considered at Cabinet on 13 April 2022 and approved at Council on 18 May 2022.
- 7.3 Following entering into a Section 278 agreement with Cumbria County Council, the County Council will be take responsibility of procurement and project delivery as the Highways Authority in line with the delivery deadlines. SLDC will work alongside the County Council to ensure that the project is delivered in accordance with the plans and within budget.
- 7.4 Subject to the S278 agreement the proposed scheme can be delivered in accordance with the S106 budget timelines.

Human Resources

- 7.5 No human resource implications have been identified.

Legal

- 7.6 The Council entered into an agreement pursuant to section 106 Town and Country Planning act 1990 on the 22 January 2015. As part of this agreement, the developer Morbaine Ltd agreed on implementation of the development to pay the Council the 'Town Centre Improvement Contribution' of £208,000, index linked to RPI. Accordingly, in November 2017 £224,043.85 was received from Morbaine Ltd. The Council is legally required to spend these monies to fund highway and infrastructure improvements in the Northern Approach from the railway station at Longpool/ Longpool Junction to Kendal town centre within 5 years from the payment date of 23 November 2017. Failure to do so will result in the monies being returned to the developer.
- 7.7 The covenant specifies that the monies should be spent on funding highway and infrastructure improvements to the Northern Approach from Kendal railway station at Longpool/Longpool Junction to Kendal town centre (Kent street). The Council considers that the proposed street scape project complies with this S106 obligation.
- 7.8 In addition, the Council has received a contribution of £22,000 from Kendal Town Council which is to be used towards Town Centre Improvements in accordance with the expenditure details outlined in the S106 agreement with Morbaine without any clawback implications. This provides a total budget of £246,043.85 for the works.
- 7.9 South Lakeland District Council has been requested to enter into a section 278 agreement with Cumbria County Council that will allow the developer (South Lakeland District Council) to enter into a legal agreement with Cumbria County Council as the Highways Authority to make permanent alterations or improvements to a public highway. The agreement must also reflect that Cumbria County Council will be undertaking the works on behalf of South Lakeland District Council as the Highways Authority.

7.10 Whilst the Council is subject to a Direction under section 24 Local Government and public Involvement in Health Act 2007, those obligations do not apply to these capital works as the consideration is less than £1m.

Health and Sustainability Impact Assessment

7.9 Have you completed a Health and Sustainability Impact Assessment? Yes

7.10 If you have not completed an Impact Assessment, please explain your reasons: Assessment completed, please see appendix 2.

7.11 Summary of Health and Sustainability Impacts:

		Positive	Neutral	Negative	Unknown
Environment and Health	Greenhouse gases emissions		X		
	Air Quality		X		
	Impacts of Climate Change		X		
	Reduced or zero requirement for energy, building space, materials or travel		X		
	Active Travel	X			
Economy and Culture	Inclusive and sustainable development	X			
	Jobs and levels of pay		X		
	Healthier high streets	X			
	Culture, creativity and heritage		X		
Housing and Communities	Standard of housing		X		
	Access to housing		X		
	Crime		X		
	Social connectedness		X		

Equality and Diversity

7.10 Have you completed an Equality Impact Analysis? No

7.11 If you have not completed an Impact Analysis, please explain your reasons: Not relevant to the delivery of the scheme.

7.12 Summary of Equality and Diversity Impacts:

Please indicate: P = Positive impact; 0 = Neutral; N = Negative; Enter "X"				
Age	P		O	N
Disability			X	
Gender reassignment (transgender)			X	
Marriage & civil partnership			X	
Pregnancy & maternity			X	
Race/ethnicity			X	
Religion or belief			X	
Sex/gender			X	
Sexual orientation			X	
Armed forces families			X	
Rurality			X	
Socio-economic disadvantage			X	

Risk Management	Consequence	Controls required
Budget Control	The scheme delivery budget is overspent due to unforeseen service issues.	All scheme costings are to be obtained ahead of the works commencing and surveys carried out to identify any potential cost increases. (Bill of quantities, Topographical survey, Drainage Survey)
Project Delivery Deadline Dates	The scheme is not delivered in accordance with the	SLDC and CCC to have regular project delivery meetings to ensure the scheme is delivered in accordance with the timeline.
Reputational Risk	Damage to SLDC's reputation with community, residents and businesses if the S106 has be returned to the developer.	SLDC and CCC working together to ensure businesses and residents are not impacted by the works and the scheme is delivered.
Section 278 agreement	Unable to enter into a Section 278 agreement with CCC would impact on the delivery of the scheme.	Work together with CCC to mitigate the risks that would be outlined as part of the S278 agreement and identify any risks or concerns with the project to Officers or Members in

Risk Management	Consequence	Controls required
		accordance with the Council's Constitution and Scheme of Delegation at the earliest opportunity.

Contact Officers

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Background Documents Available

Name of Background document	Where it is available
Cabinet Minute CEX/125	Capital Programme 13 April 2022
Cumbria County Council Local Committee for South Lakeland Minute	Highways and Transportation Working Group

Tracking Information

Signed off by	Date sent	Date Signed off
Section 151 Officer	05/04/22	04/05/22
Monitoring Officer	05/04/22	19/04/22
CMT	02/05/22	04/05/22

Circulated to	Date sent
Lead Specialist	13/04/22
Human Resources Lead Specialist	N/A
Communications Team	13/04/22
Leader	13/04/22
Committee Chairman	N/A
Portfolio Holder	13/04/22
Ward Councillor(s)	N/A
Committee	N/A
Executive (Cabinet)	8 June 2022
Council	N/A