

Hambleton District Council

Report To: Cabinet

Date: 7 June 2022

Subject: **Refurbishment of Cobbles and Surrender of Lease – Land at Stokesley**

Portfolio Holder: Economic Development and Finance
Councillor P R Wilkinson

Wards Affected: Stokesley

1.0 Purpose and Background

- 1.1 This report concerns a request by Stokesley Town Council for increased funding from the Council for the refurbishment of the town centre cobbles which is associated with the surrender of the lease between Stokesley Town Council and Hambleton District Council.
- 1.2 In March 1999 the Council entered into a lease with Stokesley Town Council for land comprising an area of cobbles on the High Street in Stokesley town centre, for a term expiring on 27 February 2090. A plan showing the land is attached at Annex 1. The intention of the lease was to enable the creation of an Off-Street Parking Order by the Council which would enable car parking on the cobbles to be efficiently managed.
- 1.3 A dispute developed between the Council and Stokesley Town Council which became long running about the appropriate level of maintenance for the cobbles in the context of the standards and responsibilities set out in the lease. The dispute could not be satisfactorily resolved but following lengthy discussions a way forward was agreed which involved the surrender of the lease and the Town Council taking back control of the land in return for Hambleton District Council providing a grant for “refurbishment works”.
- 1.4 In September 2018 the Council agreed the following: to surrender the lease between the Council and Stokesley Town Council; to provide a grant to Stokesley Town Council to carry out remedial works to the cobbled areas on completion of a Deed of Surrender; and to revoke the Hambleton District Council Off-Street Parking Places Order (Minute number CA.28). The cost of refurbishment works was estimated by Hambleton District Council at £110,944 based on a survey in June 2018. This was made up of the works costs of £87,220, together with a 20% contingency of £17,444, and a sum of £6,280 representing the Town Council’s external expert’s fees. It was decided that the works costs and the Town Council’s expert’s fees (£93,500) were to be paid to the Town Council upon completion of the Deed of Surrender. The contingency fee (£17,444) was to be retained by the District Council and was only to be used for qualifying expenditure, if required.

2.0 Request for Additional Grant

- 2.1 Since the report to Cabinet in 2018 a Deed of Surrender has been negotiated and drafted, the refurbishment scheme has been tendered and Stokesley Town Council is ready to award the contract for the refurbishment works. Hambleton District Council has provided professional support comprising officer time on designing the specification and the tender process. In addition Stokesley Town Council has commissioned a legal firm to prepare a new Off-Street Parking Order and negotiated an enforcement contract.
- 2.2 In March 2022 Stokesley Town Council submitted a report describing a significant increase in costs and the reasons why the scheme had been delayed, this is attached as Annex 2. The Town Council is requesting additional money and the rationale given for the request is that the Town Council agreed to surrender the lease on the basis that "..... Hambleton District Council would provide a grant to Stokesley Town Council to fully cover the refurbishment works and other costs".
- 2.3 Overall Stokesley Town Council is requesting a grant of £215,083, this includes £6,500 already paid by this Council towards legal fees associated with the Parking Order. The table below summarises the individual components of the grant request and for comparison includes the sums agreed by the Council in September 2018.

Table 1: Stokesley Town Council Grant Request

Item	Grant Requested March 2022	Grant Agreed by HDC Sept 2018	Difference
Legal fees – Parking Order	£11,506	£6,280 ^{*2}	£5,226
Cobble Refurbishment	£154,769	£87,220	£67,549
Contingency Sum	£30,953	£17,444 ^{*1}	£13,509
Project Management Fee	£13,200		£13,200
Parking Order Notices	£1,119		£1,119
New Signage	£686		£686
Parking Discs	£2,850		£2,850
Total	£215,083	£110,944	£104,139
<p>^{*1} The contingency sum was to be retained by HDC and only used for qualifying expenditure with the approval of the Chief Executive.</p> <p>^{*2} The Council has already paid £6,500 towards the legal fees.</p>			

- 2.4 Part of the increase in the sum for cobble refurbishment relates to further deterioration of the cobbles since the original survey and the inclusion of a further area for refurbishment. In 2018 about 550m² required refurbishment; by March 2022 this had risen to 783m².

- 2.5 The request from Stokesley Town Council for an increased grant of £215,083 to carry out the remedial works represents a 48% increase on the sum previously agreed. Notwithstanding the Council’s decision in 2018 to pay the costs of fully refurbishing the cobbles the circumstances have changed such that it is appropriate to revisit this decision; the costs have increased substantially, the area requiring refurbishment has increased and some new costs have been added in. It is relevant to consider the increase in costs in the context of the responsibilities for maintenance and refurbishment set out in the lease between Stokesley Town Council and Hambleton District Council. Under the lease Hambleton is required to “maintain the land in good order,” subject to its maintenance being “limited to maintaining all parts of the land in no worse condition than they were at the date of the lease”. The lease also provides that the Town Council shall remain liable, “for any and all schemes of refurbishment, renewal, relaying or replacement of the cobbles on the land as the need to do so may arise from time to time”.
- 2.6 Although the precise meaning of these provisions and the extent of the Council’s obligations is disputed what is clear is that overall there is a shared responsibility for dealing with maintenance and refurbishment. The request of the Town Council that Hambleton pays the full cost of refurbishment, whatever the cost and scope of that may be, does not acknowledge this shared responsibility. A fairer position would be for each party to contribute to the costs and given that the Council’s previous commitment amounts to 52% of the revised costs this would seem appropriate. This would entail Stokesley Town Council contributing the other 48% of the costs.

3.0 Link to Council Priorities

- 3.1 The surrender of the lease and the refurbishment of the cobbles would contribute to the Council’s priority of providing a special place to live by enhancing Stokesley Town Centre.

4.0 Risk Assessment

- 4.1 The key risks in approving the recommendations are:

Risk	Implication	Gross Prob	Gross Imp	Gross Total	Preventative action	Net Prob	Net Imp	Net Total
Surrender of the lease does not occur.	The Council maintains ongoing responsibility for maintaining the cobbles and enforcement of the Parking Order with the ongoing costs.	4	3	12	The Council budgets for the ongoing costs. The Council makes a reasonable grant offer.	4	3	12
Potential litigation over the Council’s interpretation of the maintenance obligation in the lease	Legal costs to defend any action, reputational damage.	3	4	12	The Council makes a reasonable grant offer.	2	3	6

Risk	Implication	Gross Prob	Gross Imp	Gross Total	Preventative action	Net Prob	Net Imp	Net Total
Refurbishment, renewal and relaying of the cobbles does not occur	The physical condition and appearance of the cobbled areas declines.	4	5	20	The Council reviews its maintenance regime and delivers a strategy for this and budgets an appropriate sum.	3	3	9

4.2 The key risks in not approving the recommendations are as shown below:-

Risk	Implication	Gross Prob	Gross Imp	Gross Total	Preventative action	Net Prob	Net Imp	Net Total
Additional costs not currently budgeted for.	Funds withdrawn or reduced for other projects/programmes.	4	3	12	Make budget adjustments where the impact will be least.	4	1	4

Prob = Probability, Imp = Impact, Score range is Low = 1, High = 5

5.0 Financial Implications

5.1 On the basis of the previous estimate for the works the Council made provision for £110,950 in its budget of which £104,450 remains. There is no provision in the budget to cover the additional costs of £104,139 identified in Table 1.

6.0 Legal Implications

- 6.1 The District Council can only surrender the lease with the agreement of the Town Council. It is not possible to unilaterally surrender it. Once surrendered, the District Council will have no control or liability in respect of the land.
- 6.2 The District Council can only impose parking restrictions, pursuant to an Off-Street Parking Places Order (Parking Order) over land it owns or over which it has control, this will not be the case following surrender of the lease. This means that following surrender the Parking Order will have to be revoked. The Town Council intends introducing its own Parking Order over the land and has taken its own legal advice on this matter.
- 6.3 To revoke the existing Parking Order the Council must first consult with a number of statutory consultees and publish its proposals in the local press. Consultees have 21 days to submit any objections to the proposals. In addition the Council is required to obtain the consent of North Yorkshire County Council as the local highway authority before making a Revocation Order.
- 6.4 Following the consultation period, and subject to receiving the County Council's consent, the Council must consider any objections received before determining whether to make a Revocation Order. If the County Council does not consent to the Order the District Council can appeal to the Secretary of State.

6.5 If the surrender of the lease does not occur there is the potential for litigation between the Town Council and Hambleton District Council over the interpretation of the maintenance obligation in the lease. There would be costs and officer time associated with this which is difficult to quantify at this time.

7.0 Equality/Diversity Issues

7.1 Maintenance of the land in good order improves accessibility for users and therefore relates to the Council's equality and diversity responsibilities.

8.0 Recommendation

8.1 It is recommended that the Council does not agree to the request by Stokesley Town Council for additional funding, over and above that already agreed, for the refurbishment of the Town Centre Cobbles.

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Background papers: None

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