

**AGENDA ITEM:
SUMMARY**

Report for:	Cabinet
Date of meeting:	22 October 2013
PART:	1 The Chairman and Vice-Chairman of the Finance & Resources Overview and Scrutiny Committee have agreed that this report can be considered as an urgent item. The decision will still be subject to call-in.

Title of report:	Financial Assistance for Retailers, Restaurants and Pubs in the Old Town High Street
Contact:	<p>Cllr Andrew Williams, Leader of the Council and Portfolio Holder for Planning & Regeneration; Cllr Nick Tiley, Portfolio Holed for Finance & Resources</p> <p>Martin Hone, Corporate Director of Finance & Operations (X2711)</p>
Purpose of report:	To agree a scheme of financial assistance for retailers, restaurants and pubs in the Old Town High Street of Hemel Hempstead who are currently encountering exceptionally difficult trading conditions as a result of the nature and delays in the completion of works to the public realm and highway.
Recommendations	That the scheme as outlined in the body of this report is agreed, and is implemented as a matter of urgency.
Corporate objectives:	The works being carried out in the Old Town High Street form a key part of the Hemel evolution regeneration plan. When complete, these will help enhance the historic character of the area whilst improving traffic flow and pedestrian movement.
Implications:	<u>Financial</u> The total cost of the scheme of financial assistance is estimated to be £106,000. In addition there may be some loss to the Council from providing free parking vouchers which cannot be quantified.
'Value For Money Implications'	<u>Value for Money</u> The one-off costs of the financial assistance demonstrate value for money in that the expenditure reduces the risk of business failures at this critical moment in the Hemel evolution project, and mitigates the consequences for the local economy and the sustainability of the Old Town area.

Risk Implications	<p>Risk Assessment completed/reviewed* on(insert date)</p> <p>There are no risks arising from this report other than what is described in the report itself.</p> <p>*Delete as applicable</p>
Equalities Implications	<p>Equality Impact Assessment reviewed/carried out*</p> <p>There are no equalities issues arising from this report.</p> <p>*Delete as applicable</p>
Health And Safety Implications	
Monitoring Officer/S.151 Officer Comments	<p>Monitoring Officer:</p> <p>The advice of the Monitoring Officer was sought during the preparation of this report and his comments are set out in paragraphs 5 to 9 of the Background Report.</p> <p>S.151 Officer</p> <p>These are contained in the body of the report. The funding for the scheme will be found from one-off underspends within the General Fund budget for 2013/14.</p>
Consultees:	<p>The proposal has been discussed with the Council's Corporate Management, and the relevant Portfolio Holders. It has also been presented to a meeting of traders from the businesses affected held on 14 October 2013.</p>
Background papers:	<p>Various working papers held in the Council's financial services department'</p>

BACKGROUND

1. The Council is leading a major regeneration of the Old Town with the physical improvements currently underway to the roads and public realm. It also wishes to ensure the future prosperity of the Old Town by helping the current local businesses to develop and be equipped to take advantage of the improved physical and trading environment. To this end the Council is proposing to make available an 'Old Town High Street Business Development Financial Assistance Scheme' to support this process.

Purpose of the scheme

2. There are 53 businesses in the Old Town High Street that are potentially eligible for the scheme. The Council would not normally provide financial help to businesses who are affected by improvement works to the highway and surrounding area. The award of financial help in this instance is recommended because the shops, restaurants and pubs in the Old Town High Street are currently suffering an exceptionally difficult trading environment due to the physical condition and constraints of the area. The adverse impact on these types of businesses along the High Street is as a result of-

- the installation of the one-way system in a confined space within a historic environment, in combination with
 - delays and disruption to the programme of works along the High Street resulting from the tomb discovery at St Mary's Close Car Park and this area being unavailable as a central site compound, and
 - the long delay in receiving materials from China.
3. The shops, restaurants and pubs were already facing difficult trading conditions before the works started, hence the reason why the regeneration of the Old Town is a strategic priority for the Council. The scheme will assist those businesses who have suffered as a result of the downturn in trade, i.e. the retail trade, pubs and restaurants. The scheme will not, therefore, be available to other types of businesses, for example, those that are office based.
4. The purpose of the proposed assistance includes:
- Stimulation of an 'Old Town High Street Business Forum' to share good practice, have input into marketing, and liaising with key partners such as the Council, HCC, the Police and so on. Membership will be a condition of acceptance of any assistance
 - Providing business with the ability to better develop their business and marketing plans
 - Opportunities to develop key business skills, small business mentoring, business planning and advice and creation of an 'Old Town' page on the Dacorum Look No Further website
 - Any other purpose that contributes to the development of the business, its premises and its workforce.
5. In addition to supporting businesses during the period of disruption, the aim of the proposed financial assistance is to help the particular traders as described in this report to meet their liabilities with regard to the payment of NNDR.

Power to award the grant

6. Under public law there is a well-established principle that local authorities are not liable to pay compensation to businesses which may be adversely affected by improvement works to the highway or public spaces. The reason for this is that local authorities would be deterred from carrying out such improvement works if there was a risk of being sued by adjacent businesses for compensation for any loss of profit. The Council, therefore, is under no duty to offer the financial assistance recommended in this report.
7. However, although the Council does not have a duty to provide financial help to the retailers, restaurants and pubs in the High Street, it can do so if it wishes. Under the Localism Act 2011, the Council has the power to do anything that individuals generally may do (the 'general power of competence'). This power expands on the previous wellbeing powers contained in the Local Government Act 2000. The general power of competence means that the Council can take reasonable action they need for the benefit of the authority, its area or persons resident or present in its area.

In other words, the general power is very wide, but it must be exercised reasonably.

8. The Monitoring Officer is confident that the recommended offer of financial assistance to the High Street retailers, restaurants and pubs in these particular and exceptional circumstances constitutes a reasonable exercise by the Council of the general power of competence. The Monitoring Officer is of the opinion that the severe impact on these types of traders in the High Street, caused by the nature of the works and the physical constraints of the area (coupled with the significant delay to the completion of the works), means that the Council is justified in offering financial support. The Monitoring Officer is also of the opinion that the total cost to the Council in making this offer (i.e. £106,000) is reasonable and proportionate to the significant downturn in trade suffered by these types of traders.

9. The Monitoring Officer has advised that the any offer of financial assistance should be made without any admission as to liability, and is being made in recognition of the exceptionally difficult trading conditions being experienced by these types of High Street traders. It is important that this should not be seen as setting a precedent in relation to other similar improvement works in Hemel Hempstead or elsewhere in the Borough.

Amount of grant

The total budget for this initiative is £106,000. It is proposed that the funds are distributed in such a way as to ensure that the smaller businesses receive proportionately more, with no business receiving less than £1,000 or more than £5,000. As a proxy to aid apportionment of the funds, the rateable values of the 53 eligible businesses have been used. Based on this analysis, the distribution of funds would be as follows:

Amount of Allocation (£)	Number of Businesses	Total (£)
1,000	21	21,000
2,000	22	44,000
3,000	4	12,000
4,000	1	4,000
5,000	5	25,000
TOTAL	53	106,000

Other support to local businesses

The Council proposes to support local businesses by providing vouchers that allow free parking for customers of the traders affected by the disruption. At this stage it is difficult to quantify what the cost of the scheme may be for the Council, but officers have advised that it is unlikely to exceed £10,000, and the actual cost can be met from underspends elsewhere in the General Fund budget for 2013/14.

In addition, the Council is prepared to stay the enforcement of the collection of outstanding NNDR for 2013/14 pending the completion of the works. In effect this would mean that any outstanding liabilities would be carried forward and collected in instalments during financial year 2014/15.