



**CABINET – 17 SEPTEMBER 2021**

**ASHBY CANAL MAINTENANCE FUNDING**

**REPORT OF THE DIRECTOR OF ENVIRONMENT AND TRANSPORT**

**PART A**

**Purpose of the Report**

1. The purpose of this report is to seek the Cabinet's approval to provide funding to the Ashby Canal Association (ACA) for maintenance of the section of the Ashby Canal which is due to be transferred to the ACA. The section of canal which is due to be transferred is shown in the Appendix to this report.

**Recommendations**

2. It is recommended that the Cabinet:
  - (a) Approves the allocation of £1.1m for funding the maintenance of the section of the Ashby Canal to be transferred to the Ashby Canal Association in line with option b(ii) as set out in this report, subject to Parliamentary approval of the proposed transfer of a section of the Transport and Works Act Order 2005 and associated land;
  - (b) Authorises the Director of Environment and Transport, in consultation with the Director of Law and Governance and the Director of Corporate Resources, to agree payment terms and enter into a funding agreement with the ACA to cover all future maintenance costs for the transferred section of canal referred to at (a) above.

**Reasons for Recommendation**

3. It is usual when a canal is transferred for there to be a maintenance undertaking or financial dowry payment from the transferer (the County Council in this instance) to the transferee (the ACA in this instance).
4. In taking on responsibility for the transferred section of the Ashby Canal, the ACA will take on all ongoing and future liabilities for the upkeep, maintenance and future development of the section to be transferred.

**Timetable for Decisions (including Scrutiny)**

5. It is anticipated that the Statutory Instrument transferring the section of the Ashby Canal Transport and Works Act Order 2005 (TWAO) from the County

Council to the ACA will be considered by Parliament in autumn 2021 (the date is still to be confirmed).

### **Policy Framework and Previous Decisions**

6. In September 2019, the Cabinet approved the submission of an application to the Secretary of State for the Environment, Food and Rural Affairs for consent to transfer powers under the TWA0 to the ACA, to enable the ACA to take on a section of Ashby Canal between Snarestone and Measham. The Cabinet authorised the Director to agree terms and conditions for the transfer of the ownership of land from the Council to the ACA, complete the transfer of the land and powers under the TWA0, and to allocate funding for interim support to the ACA in taking on ownership of the section of the canal.

### **Resource Implications**

7. The ongoing Ashby Canal maintenance budget is £40,000 per annum capital and £24,300 revenue. Should the TWA0 transfer be approved by Parliament, the County Council will retain circa 42% by length of the Ashby Canal and circa 58% will transfer to the ACA.
8. The proposed funding of £1.1m is to cover all future maintenance costs associated with the stretch of canal to be transferred to the ACA, including the repair of ongoing seepage and the construction of new stop gates at Snarestone. Funding requirements in excess of the proposed allocation will need to be covered by the ACA. The full amount is not provided for in the current Medium Term Financial Strategy 2021-25.
9. The £1.1m is inclusive of the statutory funding that LCC will be required to transfer to the ACA when the TWA0 transfer is approved by Parliament. The final value of the statutory funding element will be calculated on the date of the transfer (currently estimated to be circa £94,500) and will be met from existing Ashby Canal capital and revenue budgets. More details on the maintenance funding options are given in Part B of this report.
10. The Director of Corporate Resources and the Director of Law and Governance have been consulted in the preparation of this report.

### **Circulation under the Local Issues Alert Procedure**

11. This report has been sent to Mr. R. Ashman CC as the member for the Forest and Measham division.

### **Officers to Contact**

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## PART B

### Background

12. Since 1994, the County Council has led on the restoration of the Ashby Canal, which was closed in 1966 due to mining subsidence. The last significant section (500m) was restored in 2014/15 from Snarestone to the new Bridge 62, costing around £1.1m and was funded through a Section 106 (developer) contribution.
13. The ACA is a Registered Charity and a Company Limited by Guarantee established in 1966 to promote the restoration of the Ashby Canal. In September 2019, the Cabinet agreed that the ACA, as a charity with the sole purpose of restoring and promoting the Ashby Canal, might be better placed than the Council to secure funding for the canal's ongoing restoration and approved the submission of an application to the Secretary of State for the Environment, Food and Rural Affairs for consent to transfer powers under the Transport and Works Act Order 2005 (TWAo) to the ACA with regard to the section between Snarestone and Measham.
14. If the transfer of the TWAo is approved by Parliament, the County Council will retain a section of the Ashby Canal line at Measham and a section of the watered canal at Moira. The TWAo transfer passes any ongoing benefits or liabilities associated with the section of the canal to be transferred to the ACA.
15. When a canal is transferred, it is usual for there to be a maintenance undertaking or a financial dowry payment from the transferer to the transferee.

### Maintenance Funding Options

16. The options considered included:
  - a. **Transfer without maintenance funding:** this option was discounted as it is highly unlikely that the ACA would accept the transfer of the canal without maintenance funding. It is considered unreasonable to propose a transfer without maintenance funding as there are ongoing maintenance liabilities associated the section to be transferred.
  - b. **Transfer with maintenance funding:** the ACA would receive from the Council a payment of £1.1m to cover all future maintenance costs associated with the stretch of canal transferring to the ACA. The maintenance funding could be paid either as a lump sum or in a number of increments linked to a programme of works.
    - i. **Lump Sum:** In light of the Council's obligation to ensure the financial stewardship of public funds and the value of payment to be made, this option has a number of associated risks. However, the ACA have expressed a preference for receiving a lump sum and there are benefits linked to reduced ongoing administration.

- ii. **Funded programme of works:** The funds would be released to the ACA in line with a programme of works, to be agreed between the Council and the ACA. This option would mitigate some of the risks associated with a lump sum payment but could extend the Council's involvement in this section of the Ashby Canal for a significant period of time and would have an increased administrative burden for both parties.

17. It is considered that option b(ii) above is the most preferable as it will provide the ACA with sufficient funds to effectively manage any future canal maintenance requirements and will mitigate some of the risks associated with a lump sum payment. Subject to the Cabinet's approval, the Director of Environment and Transport, in consultation with the Director of Law and Governance and the Director of Corporate Resources will agree payment terms and enter into a funding agreement with the ACA.

### **Equality and Human Rights Implications**

18. There are no equality or human rights implications arising from this report.

### **Appendix**

Ashby Canal Land Transfer Plan

### **Background Papers**

Report to the Cabinet on 13 September 2019 - Potential Transfer of Part of the Ashby Canal and minutes of that meeting (minute 311)

<http://politics.leics.gov.uk/ieListDocuments.aspx?CId=135&MId=5605&Ver=4>